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CORRUPTION AND CRIME COMMISSION
OF WESTERN AUSTRALIA

COMMISSIONER JOHN MCKECHNIE AO KC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 19 MARCH 2024, AT 9.47 AM

COUNSEL:

MS K. NELSON (COUNSEL ASSISTING)

MR C. PORTER (WITNESS)

WITNESS: CHRISTOPHER JAMES FIELD

1 **THE COMMISSIONER:** Please be seated.

2
3 **CHRISTOPHER JAMES FIELD RECALLED ON FORMER OATH AT 09.47**
4 **AM:**

5
6 **NELSON, MS:** Thank you, Commissioner. Mr Field, on the
7 basis of your examination evidence yesterday and the
8 previous days, I just want to put some matters to you for
9 comment. So, firstly, I'd suggest you did not direct the
10 OWA to be the designated project partner on the OECD
11 agreement until 30 June 2023?---Sorry, I want to make sure
12 I'm absolutely clear about that, so I might just get that
13 repeated for me.

14
15 You did not direct the OWA to be the designated project
16 partner on the OECD agreement until 30 June 2023?---Ah, no,
17 that's not, um, completely and totally incorrect.

18
19 The OECD project proposal was first sighted by you in draft
20 on 9 January 2023, or thereabouts?---Ah, I'd have to check
21 my records for that, but late '22 early '23, um, could be
22 right, but I'd have to check my - to be exactly correct
23 about that. I mean, to be - make sure I was being
24 absolutely correct with the Commission.

25
26 Well, I'll show you an email, 0360^ page 2.

27
28 0360^

29
30 **NELSON, MS:** This is a draft of the email that was
31 eventually sent by Mr Heritage, and it was sent to your EA
32 for your approval on 9 January, and it attached the project
33 proposal, which was the first ever time that the OWA had
34 received the proposal document?---Document - I'm, well I
35 want to answer the question precisely, so I'll say this, in
36 an effort to be absolutely precise, I remember discussing
37 the proposal in a videoconference with the OECD. If that
38 is the first reduction to writing, that would be correct.

39
40 Thank you, that can be taken down. Do you accept that the
41 OWA was not named on that version, or any of the subsequent
42 versions negotiated between Ms Poole and her team with the
43 OECD over the next six months?---Ah, no, I don't accept
44 that at all.

45
46 Well, if I could put it another way. Do you accept that
47 the OWA was first named in the project proposal annexed to
48 the grant agreement received by you on 18 August? I showed
49 it to you yesterday?---Well, ah, no, I absolutely don't
50 accept that either.

1 Well, on the basis that the records do not show the OWA to
2 be on any version of the grant agreement until 18 August,
3 when the OWA was substituted for the IOI, remember I showed
4 you that yesterday?---Mm-hm.

5
6 I want to suggest to you that because that was the first
7 time that the OWA appeared on the grant agreement, it did
8 not occur to you to ensure compliance with any obligations
9 under the WA procurement legislation until that point?
10 ---No, not only is that profoundly wrong, it's provably
11 wrong.

12
13 Do you accept that under your own financial management
14 manual that I took you to on the previous round of public
15 examinations that invoices received by the OWA are to be
16 paid by your finance team ordinarily?---Yes, the finance
17 team would approve payments, correct.

18
19 And do you accept that invoices paid by the OWA are
20 normally approved for payment by a certifying officer
21 approved by the CFO under your delegations?---Um, no I
22 don't accept that. The payments are paid by the officer,
23 ah, to whom it's appropriate under the delegations,
24 depending on the nature of the particular charges being
25 incurred, and that would depend on the quantum and other
26 matters that are otherwise set out in the delegations
27 register.

28
29 Well, could I have 0550^ page 55?

30
31 0550^

32
33 **THE COMMISSIONER:** Sorry, that number again?

34
35 **NELSON, MS:** 0550^, page 55, thank you. So, this is a
36 delegation instrument of the OWA. Can you see in the
37 middle of the screen that the CFO can approve incurring
38 officers and certifying officers?---Mm-hm.

39
40 If we go to page 42, and again, CFO can approve the
41 appointment of incurring officers and certifying officers?
42 ---Yes.

43
44 But you say that this delegation wasn't relevant in
45 relation to this particular procurement, are you?---No, I
46 didn't say that at all, counsel. Or if I did, I certainly
47 didn't intend to. What I'm saying is, that's the CFO
48 approving, um, certified officers. Obviously those
49 certified officers, ah, then approve procurements. Of
50 course, none of that alters the fact that, um, for example,

1 the Ombudsman could certify a procurement at any stage.
2 Self-evidently. But, um, no, I think that's transparently
3 clear what that means.

4
5 Do you accept then that ordinarily invoices received by the
6 OWA would be paid after whoever is the certifying officer
7 has seen some evidence of the procurement that has preceded
8 the invoice?---Ah, yes, there would need to be some form of
9 evidence that could be - well, yes. Now, what that form of
10 evidence will be will vary depending on the, um, payment,
11 but the answer to that would be yes.

12
13 And in fact, that's in your financial management manual.
14 Could we have 0421^ page 45?

15
16 0421^

17
18 **NELSON, MS:** So, under the heading 'policy', in accordance
19 with the Treasurer's instruction 304:

20
21 It is the responsibility of the incurring officer to
22 approve payment for processing to the certifying
23 officer.

24
25 And then a bit further down:

26
27 At a minimum, documentation for processing of payment
28 should include evidence of authorisation for
29 purchase, compliance with GST, receipt of goods or
30 services and/or approval for payment.

31
32 And if we could just scroll up?---Sorry counsel, is this
33 the same document number, or - - -

34
35 It is 0421^?---I'm sorry counsel, but I - - -

36
37 So, prior to anyone signing off on an invoice to be paid,
38 your own policy says at a minimum, there has to be some
39 documentation in accordance with those dot points?---Mm,
40 and that could be a couple of sentences through to
41 something more, that's exactly correct.

42
43 Was the procurement memo that you tasked Ms Poole with
44 drafting to be the evidence of those dot points at a
45 minimum to persuade Ms Marsh and her finance team to pay
46 the OECD invoice?---Ah, I wasn't in the business of
47 persuading anyone, counsel, I was preparing a procurement
48 memo, um, which was a compilation of an extensive
49 procurement that had happened over a couple of years.
50 That's what the procurement memo was doing.

1 What was the process within your office that was to occur
2 for the money to actually leave the state of Western
3 Australia and arrive in the German bank account?---Ah, it
4 would have been, um, ah, something along - an email
5 combined with a, ah, perhaps a pro forma form, something
6 along those lines.
7
8 Well, why did you not just do that in order to get it paid,
9 use a pro forma form?---But they're two entirely separate
10 concepts. Um, ah, with respect, counsel. One is the
11 procurement of services, and the other is the payment of an
12 invoice.
13
14 I'm asking you what the process was that you were going to
15 employ or use to actually pay the invoice. How were you
16 going to make sure that the funds actually landed in the
17 German bank account?---For me as the CEO, I would have
18 called in, um, my assistant ombudsman and said, um - - -
19
20 Meaning Ms Marsh?---Yes. Um, saying this invoice needs to
21 be paid.
22
23 And would you needed to have provided her with some
24 background and evidence of what the invoice related
25 to?---Correct. The procurement memo.
26
27 And was that the procurement memo?---Correct.
28
29 Thank you. That can be taken down?---Well, I didn't need
30 to but it's something I would have been inclined to want to
31 do.
32
33 Well, I just asked you what you needed to do, Mr Field, and
34 you offered that. If you didn't need to provide her any
35 evidence, how would you have got it paid? You just would
36 have asked her and she would have taken the bit of paper
37 and paid it?---Um, could I have called in my finance
38 officer and said, "Here's an invoice to pay", um, and could
39 the, ah, finance officer have paid it on that basis? Well,
40 of course you could have. Um, would I have thought that's
41 something that I would want to do? No, I wouldn't want to
42 provide her, um, the background information. That wouldn't
43 have necessarily been the procurement memo. It could have
44 been a separate memo about the background information of
45 the report. But since it was contained in the procurement
46 memo, that was the sensible thing to provide.
47
48 Well, I want to - - -?---It was certainly efficient.
49

1 I want to suggest to you, Mr Field, that you knew at the
2 time that Ms Marsh would not pay an invoice for that amount
3 of money without some kind of knowledge or background or
4 some documentation to support what the invoice was relating
5 to?---Yes, correct. Um, ah, well, you talk about that
6 amount of money, um, ah - - -

7
8 **THE COMMISSIONER:** Well, you've agreed that the
9 proposition counsel put to you is correct. You just
10 agreed?---Yeah. Well, I - I - Commissioner, it's only to
11 say to this - - -

12
13 Well, it was a question - - -?---All right.

14
15 - - - which was asked?---Well, then I'll say - I'll say no,
16 that's not - - -

17
18 Well, you just said yes?---Well, because, Commissioner,
19 it's - it's, um - if it's specific to our organisation,
20 then the answer would be yes. If it was in a very large
21 department - - -

22
23 Well, we're only dealing with - - -?---Oh, okay.

24
25 - - - your organisation?---All right. In that case -
26 sorry. Oh, Commissioner, I - it's no way I want to be
27 careless about it. I was just trying to be specific about
28 what a finance officer might require to - to pay an
29 invoice. Um, in our organisation - - -

30
31 No?---Oh.

32
33 You've answered the question - - -?---Yes.

34
35 - - - and you've agreed with it - - -?---Yes.

36
37 - - - I think.

38
39 Yes.

40
41 **NELSON, MS:** Thank you, Commissioner.

42
43 So you settled the procurement memo before Ms Marsh saw it
44 in that 0114^ that we looked at yesterday?---Yes.

45
46 You used Ms Poole's previous iteration of the document as
47 the basis?---Ah, yes.

48
49 And your settled version 0114^ I suggest attempted to
50 create the stronger connection with WA functions by

1 referencing the Ombudsman of Western Australia rather than
2 just OIs or Ombudsman's Institutes?---Well, not for the
3 reason you're suggesting it didn't. Not - not - not in any
4 way whatsoever.

5
6 And you inserted the statement in relation to Western
7 Australia's indigenous communities. You said yesterday it
8 was a - a recent invention?---Well, I think you're using
9 recent invention as - - -

10
11 **THE COMMISSIONER:** No, you used it yesterday?---Yes, but I
12 didn't use it as a pejorative which I think is the way it's
13 being used with me. Um, um, no, I didn't use it as a
14 pejorative as you're using the word recent invention, I
15 think. Um, um, this was a process that, ah, as I say
16 commenced in June 2022. It was iterative along the way. I
17 had further ideas as they developed along the way.

18
19 **NELSON, MS:** Right. And that further idea was very
20 recently prior - just prior to you settling the 0114^?---I
21 had all - I had ideas all along the way about ways to
22 improve that project. Not the procurement, the project.

23
24 And I want to suggest to you that when you applied for the
25 streamline budget process funding of \$203,000, you intended
26 only to use about 12 per cent of that or \$25,000 for the
27 OECD project. At the time you applied for it from
28 mid-January, you attended - intended only to use a small
29 portion of that?---That's just profoundly untrue.

30
31 I'll take you to a contemporaneous document of yours,
32 0406^.

33
34 0406^

35
36 That's an email from yourself to Ms Poole?---Yes.

37
38 January the 16th, 2023.

39
40 If the 203 comes through, we'll allocate it this way.
41 Half of Natalie's salary -

42
43 And that's Natalie Fisher, correct?---Correct.

44
45 - \$75,000 for travel and \$25,000 provisionally
46 allocated to OECD.

47
48 ?---Mm.

49
50 As at January the 16th, it was only your intention to use

1 \$25,000 of that entire SBP funding for the OECD project?---
2 Well, sure. And in - in - and in January 16th, 2019, I
3 didn't even know I was doing the project.

4
5 **THE COMMISSIONER:** Well, we weren't asking you about that
6 date. We're asking you about this date?---Well, but it's
7 relevant because it's - it's all about the fact that this
8 continued to be a project of development. At that stage,
9 we were in discussions about the possibility of doing some
10 of that project by a, um, procurement of services - so
11 contracting out - and doing some of that work, um, in
12 house. And that was a development of the project that we
13 decided we wouldn't proceed - that we would actually
14 contract the entire project out. So true as it may be back
15 then, it certainly wasn't true by the time we got to the
16 point of the procurement of the project.

17
18 Mr Field, I wish you would listen to the question and
19 respond to the question. The question was quite specific
20 and it was about this memo at 16 January 2023, not what it
21 was before, not what it was after. Now, as at the January,
22 was \$25,000 all that you had planned to spend from the
23 SPD?---Yes. As of that date, yes.

24
25 **NELSON, MS:** Thank you, Commissioner.

26
27 As at that date, you did not intend - or as at that date,
28 you did not know whether the OWA would be funding all or
29 part of the project?---So I did not know whether it would
30 be funding all or part of the project. It was - it - I
31 don't recollect what discussion we had about our funding of
32 the project at that stage.

33
34 As at 16 January, you had not received any budget from the
35 OECD?---No.

36
37 Thank you. That can be taken down. Prior to signing the
38 OECD grant agreement in August 2023, you did not brief any
39 senior member of government that you were intending to
40 commit OWA to the agreement that you had just signed?---
41 I've been briefing, um, ah, senior members of govern about
42 the OECD project throughout the entire period.

43
44 You had not briefed them on any detail as to the proposal
45 or provided them with a copy of it?---Well, no. You're
46 right, I hadn't done that.

47
48 And you hadn't provided them with any details as to the
49 proposal?---No, I hadn't done that.

1 And you didn't give them any ongoing briefings during the
2 first half of 2023 as to the progress of the negotiations
3 with the OECD?---No. And that's completely not true. Um,
4 I gave all relevant parties briefings about the intention
5 of that project, ah, with whom, what it was going to
6 achieve or what I hoped it would achieve, and its value to
7 Western Australia. And that was the whole reason I was
8 briefing them about it.

9
10 If we could go to 0109^.

11
12 0109^

13
14 So if we start at page 4, so this is the period of time
15 when you have settled the procurement memo 0114 and you are
16 sending it to Morgan Marsh. The bottom of page 4 perhaps
17 over to page 5, thank you. So:

18
19 Attached is the procurement memo for the OECD
20 project. It's essential it receives all required
21 sign offs from certifying officers exactly in
22 accordance with the procurement rules. You have
23 password protected it.

24
25 So I ask you again, was the purpose of you giving the
26 procurement memo 0114^ to Ms Marsh to ensure that the
27 invoice was paid in accordance with the usual OWA process
28 of using a certifying officer?---No. The answer is
29 absolutely no. I had been indicating, um, ah, the need
30 that this was a procurement and the need for the
31 procurement since the - at least the commencement of 2023,
32 and, um, that procurement memo hadn't been done, um, and
33 the procurement memo needed to be done. It's true that the
34 receipt of the invoice was a catalyst for me to take that
35 project myself and finalise it. That's true. But the idea
36 that I hadn't been indicating this needed to be done and it
37 was a procurement project, um, is profoundly untrue.

38
39 What was the purpose of CC-ing Ms Poole into your email?
40 ---I think because she'd been working on the procurement
41 project. She was also my chief of staff and would be
42 regularly CC'd into almost all my correspondence.

43
44 Now, this - there's a chain of emails between you and
45 Ms Marsh if we just scroll up in which Ms Marsh asks some
46 questions. She asks you what the purpose of the memo is,
47 requests that there's - it's further clarified. And if we
48 could go up to the next big email at the top of
49 page 2 - - -

50

1 **THE COMMISSIONER:** Let me know at any stage, Mr Field, if
2 you wish to read something and it's moving too fast?---
3 Commissioner, thank you so much. I'm okay with it at the
4 moment but I appreciate that.
5
6 **NELSON, MS:** Just give you a minute to read what's on the
7 screen?---Oh, this one here? Thank you. Yes.
8
9 If we could just scroll slightly up so we can see your
10 response which is in red?---Mm hmm.
11
12 Thank you. You say:
13
14 I'd like to go a step further and personally certify
15 that at each stage of the procurement the procurement
16 rules were met and that immediately after that
17 certification it is noted this applied to the scoping
18 and negotiation and specifically cross-reference. I
19 simply repeat the evidence of this that is otherwise
20 in the file note and the attachments.
21
22 Are you saying that you did a written certification at
23 certain periods of time during the lifetime of the - of the
24 procurement to date? Are you saying you did some written
25 certification after the scoping?---All I'm trying to say
26 there is, ah - and perhaps, um, reflective of the
27 Commissioner's comments about good governance yesterday,
28 beyond the Procurement Act and procurement rules that
29 wouldn't require me to do that, I was trying to indicate
30 that as the CEO and the authorised officer that I was
31 noting at each stage of the procurement that as something
32 of which I was aware, um, the appropriate documents that
33 were required under the Act and the rules had been
34 understood and cited by me, and it was signing that.
35 That's all I was trying to say.
36
37 And that written note was the actual procurement at - - -?-
38 --Yes, correct.
39
40 - - - 0114^?---Correct.
41
42 There was no earlier certification record by yourself?---
43 No. There was the Procurement Act and the attachment to
44 the - sorry, the procurement memo and the attachments to
45 the memo. And the - and the memo attachments were the
46 contemporaneous documents.
47
48 And if we could scroll down, thank you, to see your answers
49 to the rest. I'll just give you a minute to look at that?--
50 --Yes. At the time, did you have some familiarity with the

1 simple contract template that you refer to?---Correct. And
2 - and the other - and the other contract templates as well.
3 That's one of them. And Ms Morgan says that it needed to
4 be registered on Tenders WA?---Correct.
5
6 Has that since been done?---No, it hasn't been, and that
7 was because of the receipt of the letter from the
8 treasurer.
9
10 And you nominate yourself as the contract manager?---
11 Correct.
12
13 **THE COMMISSIONER:** An arrangement's been made to put it on
14 Tenders WA?---Yes. Ah, well, sorry. It was my, ah - I
15 mean, this is no criticism of my staff at all. My
16 intention that it would go onto both Tenders WA - and
17 indeed, there's a second requirement, Commissioner, onto
18 the exemption register. So those two matters.
19
20 Well, it's not on either. But there's a time limit for
21 putting it on Tenders WA?---Correct.
22
23 So what steps were taken by you to have it put on
24 Tenders WA?---It was my understanding that after this
25 correspondence it was going to be done, but it wasn't done.
26 But I make no criticism of staff. That I still accept
27 responsibility.
28
29 **NELSON, MS:** Do you accept, Mr Field, that at this time -
30 so we're now talking about 25 October - that the CFO was
31 not aware that the contract had already been signed?---I'm
32 not aware about what the CFO'S knowledge was about that,
33 um, at that time. I have some recollection there might
34 have been some email exchange about that, but I have to say
35 I don't have a photo recollection of that.
36
37 Do you accept that later during November you found out that
38 the CFO was not aware of the signed contract as at
39 25 October?---As I say, I can't say I have a photo
40 recollection but I do have some recollection of an email
41 exchange about that.
42
43 If we have 0160.
44
45 0160^
46
47 So this is the initial letter received from the treasurer
48 on 6 November. Do you recall having a meeting in the
49 office with Ms Morgan and Mr Heritage on that day?---No, I
50 don't have a recollection of that meeting on that date.

1 I'm not saying it didn't happen, I just don't have a
2 recollection of it.
3
4 Do you recall what time of the day you received this copy
5 of - - -?---No.
6
7 - - - the letter?---No, I don't. Sorry.
8
9 It's addressed actually to the CFO, isn't it?---It is.
10 Correct.
11
12 Do you accept that you saw the letter on 6 November?---I
13 don't recollect that either. I certainly saw it, um, and I
14 presume it was on or about the day it was received, but I
15 don't have it. I just don't have that recollection.
16
17 The Commission has an email from Ms Morgan to yourself at
18 4.38 pm attaching the letter. Would you accept that?---
19 It's very likely I saw it on or about that time.
20
21 And later that evening you then emailed Ms Marsh. Do you
22 recall - do you recall that?---I don't. Sounds like
23 something I would have done.
24
25 Do you recall who you talked to after you were sent a copy
26 of this letter?---No, I don't.
27
28 Could you have talked to Ms Poole about it?---It's
29 possible. I actually don't have a recollection.
30
31 Did you talk to Ms Poole about most things?---Ah - - -
32
33 To do with OWA work or IOI work?---Oh, yes. We've spoken
34 regularly about, ah, most things. As I - I just don't have
35 a recollection of that particular - don't have a
36 recollection of actually speaking to Ms (indistinct) or
37 even the email you're referring to.
38
39 As at 6 November Ms Poole was on extended leave having gone
40 on leave on 1 November?---Correct.
41
42 Does that assist you with your recollection as to whether
43 you spoke with her?---I - no, it doesn't. I do know while
44 she's been on extended leave my contact with her has been
45 very limited.
46
47 Sorry, your contact had what?---Been very limited.
48
49 Limited?---Mm.
50

1 What do you classify as limited contact?---Well, highly
2 infrequent.

3

4 **THE COMMISSIONER:** Sorry, highly infrequent is what you
5 said?---Yes.

6

7 **NELSON, MS:** Would you be surprised if I told you that on
8 6 November you spoke with Ms Poole on the phone over
9 several phone calls for a total of about 137 minutes?---Ah,
10 well, as I say, we would speak regularly, um, about all
11 matters to do with - well, she was my chief of staff, we'd
12 speak regularly about all matters.

13

14 Could I have 0592^.

15

16 0592^

17

18 **NELSON, MS:** Thank you. 0592^ is call-related data
19 between A Party - the person making the call - and then in
20 the next column we've got who that subscribed number is
21 held by?---Mm'hmm.

22

23 And B Party is the person to whom A Party is making the
24 call. And you can see towards the right of the screen, the
25 third-last column, the duration of each call. So on the
26 morning of 6 November you spoke to Ms Poole, third row
27 down, for just under three minutes. So that's 178 seconds,
28 just under three minutes. You spoke to her again at
29 2.28 pm for 39 minutes. And then after you received the
30 email from Ms Marsh attaching the letter from the treasurer
31 - so from 5 pm until 6.58 pm you spoke to Ms Poole on four
32 occasions. Can you see that?---Yes.

33

34 So the first occasion was only seven seconds, and then at
35 5.03 pm 84 minutes, then at 6.29 pm at 26 minutes, and then
36 at 6.58 pm 27 minutes?---Yes.

37

38 Does that assist you to recall what you were discussing
39 with her?---Absolutely not. We would have had thousands of
40 phone calls over the six or seven years that she was
41 working with me.

42

43 But at this time she was on extended personal leave, wasn't
44 she, Mr Field?---I can't remember when that extended leave
45 actually started.

46

47 It started on 1 November?---Ah, in that case the answer is
48 yes. I knew it started on or around that time.

49

1 Actually, it might have started two days before that?---
2 Yes, my recollection is it started late October to - so
3 that would certainly make sense.

4
5 And in fact Mr Heritage was acting in Ms Poole's position I
6 think from 31 October. Does that assist?---Er, well, I
7 think that assists in - in establishing that, um, Ms Poole
8 was on leave, correct.

9
10 During the period of time you were on the phone with her
11 after you had received the treasurer's letter she sent you
12 several emails attaching email correspondence between
13 herself, Mr Heritage, Ms Fisher, and the OECD and the IOI?--
14 --Yeah.

15
16 Do you recall that?---Oh, no, I don't, but I accept that
17 you - accept your - accept it was done.

18
19 It was about a total of five emails attaching historical
20 email communications. You agree with that?---I'm - I'm
21 accepting if you're telling me that was done, that was
22 done.

23
24 Do you recall what you did with those emails?---No, I do
25 not.

26
27 Could I have 0584^.

28
29 0584^

30
31 **NELSON, MS:** So having received an email from Ms Poole at
32 6.53 pm on November 6, you forwarded it to Ms Marsh and the
33 CFO and Belinda West and Ms Gartland very early the
34 following morning, so at 12.45 am on 7 November. You're
35 nodding your head, Mr Field? Sorry, for the transcript you
36 have to actually say something?---Oh, no, I'm - - -

37
38 You accept that?--- - - - just reflecting on the hours I'm
39 working. Um, yes, 24 - that's in the morning. That's
40 exactly correct.

41
42 And then if we could have 585^.

43
44 585^

45
46 **NELSON, MS:** A few seconds later you forwarded on another
47 email to Ms Marsh - - -?---Correct.

48
49 - - - and the CFO that you'd received also the previous
50 evening from Ms Poole?---Correct.

1 0586^.

2

3 0586^

4

5 ?---Correct.

6

7 In fact, this was probably the one I should have led with.
8 This was the first in the chain. So it's 12.44.23 am. So
9 you say to Ms Marsh:

10

11 This is an attachment for the letter to the treasurer
12 as are the next emails. All of the emails to Kyle
13 are also attachments.

14

15 ?---Yes.

16

17 So the purpose of you forwarding on these emails is for a
18 response to the treasurer to be collated?---Yes. So now
19 you've shown them to me, it's absolutely, ah - so I do not
20 have a photo recollection of that particular phone
21 conversation, I do not, um, nor do I of those exchanges.
22 But it appears, um, from what was - from these emails is
23 the call that I made was there was a whole raft of, um,
24 contemporaneous emails that went to, um, the procurement of
25 the OECD project. 'I don't have a copy of them, can you
26 send them through to me?'

27

28 And could we have 0587^.

29

30 0587^

31

32 **NELSON, MS:** So a later email you forwarded on - - -?---
33 Yes.

34

35 - - - a few seconds later at 12.44.49 am?---Yes.

36

37 And then the last one 0588^.

38

39 0588^

40

41 **NELSON, MS:** The last of the emails that you forwarded
42 on?---Not sure if it was the last for the night, but that
43 was the last of those, I accept that.

44

45 During the telephone calls that you had that night with
46 Ms Poole - that is the night of 6 November - did she
47 express any concern to you about the letter you'd received
48 from the treasurer or any concern about the OECD project
49 itself or the invoice?---Ah, I don't have any recollection
50 of that at all. I actually don't recollect the phone call.

1 Did she tell you not to go ahead with the project at any
2 stage in November?---Um, I think she was - had a general
3 concern about, um, the project from probably the very start
4 of the project, um, not just at that stage but right from
5 the very start.
6
7 When you say 'the very start of the project', when are you
8 referring to?---Oh, going back to, you know, 2022 all the
9 way through.
10
11 So she expressed concerns to you way back in 2022?---Yes.
12 Not about it being corrupt; she expressed - - -
13
14 I'm just asking you a simple question, Mr Field. Did
15 Ms Poole express concerns - - -?---Well, yes, she - - -
16
17 - - - to you about the OECD project?---Yes, she did. And I
18 can tell you what the concern was.
19
20 Yes?---It was too much work.
21
22 Was there any other concern?---That was the concern she
23 had, that we were taking on too much work.
24
25 And when did she say that to you in 2022?---Oh, I think she
26 said it to me regularly all through 2023, 'Are we taking on
27 too much work? Is this too much work?' Those were the
28 concerns she expressed to me. And she did so I think in a
29 very well-meaning and good-hearted way.
30
31 And did she say anything more about what she meant by that
32 comment? Did you ask her to explain it?---Well, we were
33 just so busy. We were just exceptionally busy. We had no
34 staff. There was myself and Rebecca in the team and we had
35 so much work we were doing, not just IOI work but ombudsman
36 policy work. We were frantically busy. Despite the very
37 important headline that ran nationally about me working
38 36 days in a year, in fact what I was happening throughout
39 2023 is working, ah, all-nighters on a regular basis well
40 past midnight to keep up. She was concerned about the work
41 that was being done - the amount of - sheer amount of work
42 that was having to be done by the office. She wasn't
43 concerned about the OECD project in any substantive way,
44 not that she expressed to me.
45
46 So her concern was about the amount of work she was doing
47 and her team - - -?---And me.
48
49 - - - at the OWA?---And me. She was expressing that
50 concern for me as well.

1 And also about the amount of work her team were doing at
2 the OWA?---No, she didn't have a team.
3
4 She had Ms Fisher for a portion of 2023?---Oh, a very small
5 portion of the year. Um, but the vast majority of the
6 year, um, the work that was being done was the work being
7 done by myself and by her.
8
9 Ms Fisher was in the office from February to the end of
10 June 2023?---Yes.
11
12 And during that time she's told the Commission she spent
13 most of her time doing IOI work?---She spent some of her
14 time doing IOI work, that's certainly true. I don't know
15 if it was most of it, but it would have been a good - it
16 would have been a good time - a good portion.
17
18 And there was Ms Italiano-Schmidt as well - - -?---Correct,
19 correct.
20
21 - - - who spent most of her time in the office doing
22 IOI-related work in 2023?---Um, she did a raft of policy
23 work including IOI work quite properly, quite
24 appropriately.
25
26 And Mr Heritage at various times during 2023 did IOI work?--
27 --He did. Mr Heritage we were trying to keep as much as
28 possible into the own motion investigation area of the
29 office where he spent time.
30
31 **THE COMMISSIONER:** Sorry, I didn't hear any of that.
32 Could you repeat it, please?---Oh, sorry. Um, Mr Heritage,
33 I was very keen for him to work in the own motion
34 investigation area, the major investigation area. But I
35 certainly don't suggest, counsel, they weren't working that
36 area, um, and that some of their work was dedicated to IOI.
37 And that was quite proper and quite appropriate.
38
39 **NELSON, MS:** So when Ms Poole expressed to you on those
40 many occasions during 2022 and 2023 that the OECD project
41 was too much work, what was your response?---Ah, well, I
42 think I had multiple responses. One was, um, that people
43 have been saying it's too much work for my career, and we
44 manage - beyond the Ombudsman's office. And second of all,
45 um, that a good portion of the OECD project was proposed to
46 be in fact actually a procurement. It was - it was
47 contracting out of services, say, for example, the way
48 we're doing the charitable trust investigation work at the
49 moment. So I didn't think, um, it would be an excessive
50 amount of work for our existing staff.

1 So did you reassure her that it was not going to be an
2 excessive amount of work?---Ah, I - well, I certainly would
3 have said that to her, correct.

4
5 Going back to November 2023, did Ms Poole express to you
6 that because of the political situation and the fact that
7 government was not supporting you that you should not do
8 the OECD project?---Um, I think she might have said
9 something along those lines to me, yes. I don't have a
10 photo recollection of when or the exact words or
11 terminology she would have used but, um, I think she
12 probably would have said something like - as I say, I don't
13 know when. I don't have an exact recollection of the
14 words, but it does ring a bell with me now you say that she
15 said something like that.

16
17 So it's not something that you thought was particularly
18 noteworthy that your chief of staff thought you shouldn't
19 continue with a project?---Noteworthy? Well, I don't want
20 to be critical of Ms Poole. It was an outrageous idea.

21
22 Outrageous idea to not go ahead?---Of course.

23
24 Why?---Why? Because the Ombudsman is independent of the
25 government of the day. It would be utterly outrageous,
26 totally derelict in every possible oath and duty I have
27 signed in terms of not only the oath I take before
28 parliament in terms of my service - exclusive service to
29 parliament, the United Nations Resolution, the Venice
30 Principles, that I would do a project because it was
31 annoying government. I mean, that's - no ombudsman in the
32 world would be able to exist if that was the basis they
33 undertook their activities.

34
35 Did you reply with that response to Ms Poole?---Yes, I
36 think I was fairly clear with her about my response, yes.

37
38 **THE COMMISSIONER:** Mr Field, I just want to put on record
39 as a person who has held several independent offices under
40 government in the course of my career, there is a great
41 difference between independence and accountability, and
42 they should never be elided?---Well, Commissioner, that is
43 just a profoundly incorrect statement in my view.

44
45 So do you equate independence with non-accountability?---
46 No, quite the opposite. And it goes to exactly the opening
47 points this counsel made at the start of this process which
48 is about independence and impunity. I equate independence
49 as total independence from the government of the day and
50 absolute - absolutely complete and total accountability,

1 subservience, and a servile relationship to the Parliament
2 of Western Australia. If the Parliament of Western
3 Australia had told me not to do this project, the Standing
4 Committee on Public Administration had told me not to do
5 this project, the parliament or any of its committees - the
6 Privileges Committee had told me not to do this project, I
7 would have stopped doing this project instantaneously.
8 That I am absolutely, completely - completely, um, never
9 acting with impunity; I am acting as a servant of the
10 parliament. But I absolutely am acting independent of the
11 government of the day.

12
13 Very well.

14
15 **NELSON, MS:** At what stage is the project at today,
16 Mr Field?---Um, it is as of today hasn't, um, progressed,
17 um, and that is because there was a letter received from
18 the treasurer. But there is a second reason I haven't
19 progressed the letter, and that is because, um, of my
20 respect for, well, um - this is well known; I have a
21 respect for the Commissioner personally, that is the
22 Corruption and Crime Commissioner, but I also have a
23 respect for this Commission. And I just simply did not
24 think it was respectful to the Commission, um, to proceed
25 with the contract on the basis that it was currently the
26 subject of a matter of inquiry.

27
28 So has the contract been terminated?---No, it hasn't been
29 terminated. I haven't paid the invoice.

30
31 So it's on hold for the time being?---Correct, correct.

32
33 Did Ms Poole ask you to take her off any activities to do
34 with the OECD project?---She did. She was subsequent to,
35 um, the newspaper articles, um, and the front page of the
36 newspaper very concerned about - and - and properly and
37 understandably, in my view, very concerned about her
38 association with all matters to do with the IOI. Not just
39 this; all matters to do with the IOI. And I respected that
40 utterly and completely.

41
42 The media articles were at the beginning of October, and
43 we're now talking about the beginning of November. So you
44 say that despite Ms Poole having told you after the media
45 articles to not have her to do anything with the OECD
46 project that you still continued to discuss it with her and
47 ask her for emails?

48 ---Well, no, I'm sorry. To do with the OECD in terms of -
49 or any of the IOI, to terms of anything that might be a
50 matter of public record, to be able to respond to the

1 Treasurer, there was information that I needed to get. As
2 it turns out, those various materials were ultimately
3 available in the computer system, and that's where - and
4 that's why I haven't had to speak to Ms Poole about any
5 forms of - for example, leaving aside any confidentiality
6 where I couldn't have, ah, I have been able to gain access
7 to all those matters through the computer systems.

8
9 But you have continued during November to speak with
10 Ms Poole though, haven't you, on the telephone?---I've
11 absolutely kept in contact with Ms Poole in relation to,
12 um, ah, her wellbeing, correct.

13
14 So, is it your evidence that all contact you had with
15 Ms Poole after 6 November was only to do with her wellbeing
16 and not to do with OWA work?---Oh, there may have - as I
17 say, my recollection is that number one, um, the vast bulk
18 of my interaction with her has been in relation to her
19 wellbeing. There was certainly conversations in relation
20 to OWA work, um, and, um, Ms Poole herself, once again, I
21 think very reasonably and properly, had asked to be kept in
22 touch with some of that OWA work, so that she was aware of
23 what would happen when she returned to the workplace. So,
24 she didn't want various things happening in the workplace
25 of which she wasn't aware for when she did return.

26
27 And did you also communicate with her about IOI work during
28 November 2023?---Yes, there was a certain point where I
29 refused to speak to any staff member about IOI work, and
30 that was, um, this year. Um, back then I may well have
31 spoken to her still about IOI work, correct.

32
33 What in particular did you speak to her about during the
34 rest of November 2023?---I'm sorry, I'm not in any way
35 trying to avoid the question, um, I just don't have a photo
36 recollection of that.

37
38 Did you speak with her most days on the phone in November
39 2023?---Um, as I say, during the period she was my chief of
40 staff, we would have spoken multiple times a day.

41
42 But during November 2023, did you speak with her most
43 days?---I don't have a recollection, it wouldn't surprise
44 me if that was possible.

45
46 **THE COMMISSIONER:** Well, you described your contact with
47 her as 'highly infrequent' during November?---No, no,
48 highly infrequent during the period that she's been on
49 leave. She's been on leave for a very extended period of
50 time, with no criticism intended by saying that of course.

1 Um, and, ah, that infrequency has been particularly so in
2 the last few months, including no contact at all about any
3 IOI matter. In fact, I think I might have spoken to her
4 only once in several months now. Starting now. Back in
5 November, um, it may well have been that I was in greater
6 contact with her, including on IOI matters, that's
7 perfectly possible.

8
9 **NELSON, MS:** And would that have been daily contact by
10 phone with her?---Perfectly possible.

11
12 On multiple occasions per day?---Could have been perfectly
13 possible.

14
15 In January, and indeed in February, you have emailed
16 Ms Poole about IOI work, haven't you?---Yes, oh, well, I
17 don't remember, but if you can show me the emails, I'm

18 - - -

19
20 You don't remember, okay. Can we have 0431^?

21
22 0431^

23
24 **NELSON, MS:** On the 26th, you corresponded with her about
25 your nomination for election as president?---Yes, yes. So,
26 thank you for showing me that, and I certainly have a
27 recollection, now we're talking about that, that there was
28 correspondence between us regarding those sorts of IOI
29 matters, absolutely correct. So, not matters to do with
30 things like what I might call triggering issues, in the
31 sense that she was concerned about matters like the OECD,
32 because of the view that she had. A view that, as I say, I
33 thought was totally understandable, profoundly wrong, but
34 these matters here, absolutely.

35
36 And did you correspond with her in January about speeches
37 for IOI-related work?---Perfectly possible I did that.

38
39 Could we have 0433^?

40
41 0433^

42
43 **NELSON, MS:** It's a particular speech?---Yes.

44
45 Did you correspond with her about intended travel in 2024
46 for IOI work?---Might have, yes. Absolutely that would
47 have been the sort of thing I would have thought was
48 appropriate to correspond about.

49

1 Why would it have been appropriate to correspond with her
2 about that while she's on extended leave?---Well, because
3 Ms Poole sent me a number of messages - you're not showing
4 them to me, I'll find them, where she encouraged me to
5 contact her, and said it was fine to keep in contact and
6 she wanted to keep in contact about things.
7
8 I see?---You're not showing them to me, you no doubt have
9 access to them, but you're not showing them to me. But
10 I'll find them.
11
12 Can I have 0452^?
13
14 0452^
15
16 **NELSON, MS:** Could we have the whole of the front page of
17 that email on the screen, thank you? Do you recall that
18 email exchange about you going to Uzbekistan?---Yes.
19
20 And was that the trip that you told the Commissioner on the
21 last time you appeared before the Commission that you were
22 about to take?---Yes, correct. Exactly the - the - exactly
23 correct, at the end of the last hearing.
24
25 When Ms Poole comes back to the OWA off extended leave, is
26 it your intention that she will continue to accompany you
27 on travel for IOI purposes?---Ah, no it is not.
28
29 Do you still intend to travel for IOI purposes in 2024?
30 ---Yes, I do.
31
32 And will you be doing that unaccompanied?---Yes, I will be.
33
34 Thank you, that can be taken down. So, going back to
35 November 2023, during the time that you were drafting the
36 response to the Treasurer with the CFO, did you confer with
37 Ms Poole at various points to settle that eventual letter
38 that went back to the Treasurer?---I don't have a
39 recollection of doing that, but it's absolutely possible
40 that I did.
41
42 If we go back to 7 November. So, you'd given some
43 documents to Morgan Marsh and the CFO early that morning.
44 Did you then create a new document called a materials for
45 discussion document?---I don't recollect doing that, nor
46 the name of the document.
47
48 Can we have 0524^?
49
50 0524^

1 **NELSON, MS:** Do you recall this email exchange?---Yes,
2 correct.
3
4 Madam Associate, I think there are hardcopies of this
5 document, it might be better if they could be handed out,
6 thank you?---Thank you.
7
8 Now, in the attachment, there's quite a length document
9 titled, 'Material for discussion with Layla, Morgan and
10 Belinda'?---Yes.
11
12 If we could go to page 2, thank you Madam Associate. Now,
13 you've got the entire document in hardcopy in front of
14 you?---Thank you.
15
16 Is this a document that you drafted yourself? Mr Field,
17 did you draft this document?---Oh, sorry, I'm still looking
18 at it. Sorry, counsel. Yes.
19
20 And the red on the screen are tracked changes that you are
21 telling Morgan and the CFO and Ms West that you have made?
22 ---Yes.
23
24 What was the purpose of this document?---My recollection is
25 this was a document that was in response to the Treasurer's
26 letter.
27
28 So, this was like a working draft response letter?---Yes,
29 that's - yes, counsel. Yes, counsel, that's my
30 recollection.
31
32 Did you use your earlier memo, 0114^ that we looked at, the
33 20 October memo, as a basis for this document?---Sorry,
34 which earlier memo?
35
36 The memo that you'd sent to Ms Marsh on 20 October, the
37 procurement memo that you settled?---Oh, um, I don't
38 recollect.
39
40 Did you discuss this document with Ms Poole over the
41 phone?---Don't recollect whether I did or I didn't.
42
43 You forwarded it to her immediately after sending it to
44 Ms Marsh, if we could go to the first page. You sent this
45 document to the CFO, Belinda West, Ms Marsh and Ms Gartland
46 at 2.21 pm?---Yes.
47
48 And seven seconds, and you sent it to Ms Poole a few
49 seconds later?---I must have wanted her, ah, reading of it
50 to see if there's anything that I - from her understanding

1 and involvement in the procurement if there's anything I'd
2 missed, which would be a very typical thing for me to do.
3
4 And two hours after you sent it to her, you had a 40-minute
5 telephone conversation with her?---(indistinct) going for -
6 that would be a very typical thing for me to do.
7
8 And then the following morning, you had another 40-minute
9 conversation with her?---Yes. Oh, I don't recollect that,
10 but you know, with the (indistinct) it was about getting
11 the letter right.
12
13 So, you were doing that despite Ms Poole having earlier
14 told you that she didn't want anything more to do with the
15 OECD?---She didn't want anything more to do with the OECD
16 project in the terms of it being a, ah, publicised
17 activity. Um, I - there was nothing I gathered, um, from
18 Ms Poole that she wasn't comfortable talking to me about
19 it. You've also (indistinct) Ms Poole all autonomy in
20 agency, if she hadn't wanted to speak to me about it, I
21 think she would have - I can tell you, having worked with
22 Ms Poole, she would have told me.
23
24 Mr Field, I have to say to you, she's told us something
25 completely different. She's told us that you directed what
26 work she did, and she didn't feel like she could actually
27 tell you when she didn't want something to be done. She
28 felt like she was directed by you?---Right, well - - -
29
30 Do you accept that or not?---Well, I accept that as a
31 statement of obviously the fact that she was my, um, direct
32 report, and of course, um, if I asked her to do something.
33 But it wasn't I - it wasn't a didactic or bullying
34 relationship, um, in - and I couldn't imagine that at the
35 time if she'd been uncomfortable in discussing this, she
36 wouldn't have indicated that to me.
37
38 Did she tell you that she was not going to ask Ms Marsh to
39 pay the invoice received on 12 September?---I don't have
40 any recollection of that. I have the absolute recollection
41 that this was a project, um, from, ah, its very start, um,
42 which she - she lacked enthusiasm. That's absolutely
43 correct.
44
45 Well, I'm talking about the period of time after the
46 invoice was received, you asked her to do the procurement
47 memo, which she did dated 18 September?---Yes.
48
49 And she said to you sometime after that, but before 6
50 November:

1 I'm very sorry, but I can't ask Morgan to pay this
2 invoice. If you want her to pay this invoice, you'll
3 have to ask her yourself.

4
5 Did Ms Poole say that to you?---Ah, I have a recollection
6 of her saying something almost exactly along those lines.

7
8 Did she also say to you, you can't limit knowledge of a
9 financial transaction?---Sorry, what was that?

10
11 You can't limit the knowledge of a financial transaction?
12 ---Limit the knowledge of a financial transaction?

13
14 Do you recall her saying that to you?---Absolutely not,
15 limit the knowledge of the financial - I was trying to tell
16 the world about this financial transaction.

17
18 Well, to be fair to Ms Poole, we did see an email earlier
19 this morning in which you had password-protected the
20 procurement memo?---I password protected it because there
21 was a front page newspaper article that had been given by
22 an employee of my office, leaking - unlawfully, which I
23 hope the CCC is investigating, an unlawful leak from a
24 staff member of my office, in breach of my legislation, to
25 The Western Australian newspaper, that's the password-
26 protection. If I had been trying to hide this, um, this
27 contract, I'd be the worst criminal in human history. I
28 was telling every single senior officer in this state about
29 this contract, about this project. I was putting it on
30 LinkedIn, which is a well-known platform to advise people.
31 You've been looking at my LinkedIn profile, you've probably
32 seen it, counsel. There was a clear LinkedIn entry talking
33 about this project months before any of this
34 correspondence. The idea that I was trying to hide this
35 OECD thing, I was proud of it, and I was telling everyone
36 it was an outstanding outcome from my presidency, and a
37 benefit to this state. The idea I was trying to hide it is
38 an absolute, abhorrent nonsense.

39
40 Did she say to you, 'Ombudsman, I'm very sorry, I know I've
41 never spoken to you like this before, but you cannot go
42 ahead with this project, you've actually lost it on this
43 one, you've jumped the shark'?---Ah, yes. Well, Ms Poole
44 did actually say exactly those words to me, and, um, they
45 were the same words she said to me about going to Ukraine,
46 and they were the same words she said to me about the
47 Styria agreement, the MOU with Styria, and also the same
48 words she said more generally about the fact that we were
49 taking on too much work. She said all of those things to
50 me. If you're saying it was about this project alone - - -

1 I am?---You're absolutely, completely wrong.

2

3 I see the time, thank you, Commissioner.

4

5 **THE COMMISSIONER:** Well, you have said she said it about a
6 number of things. Did she say about this project?---She -
7 she absolutely expressed her reservations about those - in
8 those exact words I think she did say.

9

10 About this project?---Correct.

11

12 Thank you.

13

14 Yes. We'll take the morning break for 20 minutes.

15

16 (Short adjournment)

17

18 **THE COMMISSIONER:** Please be seated.

19

20 **NELSON, MS:** Mr Field, before the break you mentioned that
21 Ms Poole had also contacted you from November 2023 while
22 she was on leave - that it wasn't just you contacting her.
23 I think that was what you were trying to say?---Um, I don't
24 have a recollection of that, but when you - I think cos you
25 mentioned some phrases to me and I had a recollection of
26 those phrases.

27

28 Do you recollect that during the period that Ms Poole was
29 on extended leave and particularly during the entire course
30 of November 2023 that Ms Poole contacted you numerous times
31 as well as you contacting her numerous times by telephone?--
32 --There was definitely contact in, ah, November. That
33 would be correct.

34

35 Could I have 0645^, please?

36

37 0645^

38

39 So this is a document which shows the extent of telephone
40 contact between the two of you, so of course doesn't
41 account for email contact as well. So you can see the A
42 party is the person making the call. So just in that first
43 week of November you've made calls to Ms Poole, and she's
44 also made calls either to the office or to you. And then
45 if we scroll through to the next page, same thing. And
46 then the next page and then the next page. We're now down
47 to 20 November. And then the final page. There might be
48 one more page, thank you. So you accept that during the
49 course of November there was numerous telephone contact
50 between both of you, and at various times it was instigated

1 by you and at other times by her?---Yes. So I recollect
2 very strongly during that period, um, that I was
3 exceptionally concerned for her wellbeing and I was, ah,
4 reaching out and in contact, ah, with her, um, during that
5 period - and not just by telephone but I actually visited
6 her on one or two occasions as well, so I was very
7 concerned.

8
9 When did you visit her in November?---Ah, I don't recollect
10 the actual dates.

11
12 And I've shown you emails between you and her particularly
13 on the 6 November and discussed with you that you sent her
14 emails about the letter to the treasurer on 8 November and
15 9 November?---Yes.

16
17 So do you accept that the discussions you had with her
18 during the entire month of November might have included
19 discussions about communication with the treasurer?---Oh,
20 they may have. Correct. The, um - what I recollect about
21 November, um - and of course it was not long after the, um
22 - the series of newspaper articles is that I was I think
23 correctly, ah, deeply concerned about Ms Poole's welfare,
24 ah, and I was in contact with her during that period, um,
25 ah, not just as an employee - she'd been my chief of staff
26 for a number of years. Um, and, ah, the bulk of the
27 conversations would have been around that, um, but is it
28 possible we discussed matters like that? Yes, it's
29 absolutely possible.

30
31 And is it possible that you sought her counsel as to the
32 final versions of the treasurer's letters in November?---
33 No, I don't recollect seeing - it's possible. I have to
34 say that I don't recollect being the case because I - there
35 was a certain point where it was very clear to me, um, that
36 her engagement with work matters of any kind - it wasn't
37 just the OECD project. It was any matter of any kind, um -
38 were, um, not conducive to her health. And that actually
39 led to me sending contact to her to say, "Are there things
40 you want me to talk to you about or do you want me to not
41 talk to about anything at all?" And there was
42 communication along those lines.

43
44 But that was not before you settled the response to the
45 treasurer on - - -?---I don't - - -

46
47 - - - 23 November?--- - - - recollect that was before that.
48 That's exactly correct.

49
50 Could we have 0522^?0522^

1
2 Now, this is an email from yourself to the CFO and you copy
3 in Ms West, Ms Marsh, Ms Gartland. And if we could go to
4 page 2, we can see the document that's attached is a draft
5 of the letter of 13 November to the treasurer. Did you in
6 fact draft that letter response to the treasurer of
7 13 November?---Could you keep going through the letter for
8 me, please?

9
10 Next page, thank you?---Oh, and - sorry, the - - -
11

12 And the next page?---So sorry. You obviously allowed me to
13 read it. Sorry. Yes, I did draft that letter, although it
14 is my recollection, um, that I - with the letters I'd have
15 to go back and look at each one specifically because there
16 was a couple is my recollection that I had the assistance
17 of counsel in relation to that.

18
19 **THE COMMISSIONER:** Had, sorry, the assistance of?---
20 Assistance of counsel in relation to that.

21
22 **NELSON, MS:** So someone other than the CFO, Ms West,
23 Ms Marsh or Ms Gartland?---Correct.

24
25 Why had you copied Ms West into this series of emails about
26 the treasurer's letter?---Oh, Ms West, um, ah, is an
27 officer who had, ah, had a role in the finance area. She'd
28 acted for the assistance ombudsman Morgan Marsh, um, so
29 that was the reason she was CC'd into it.

30
31 Had she had any involvement with the OECD project before
32 November 2023?---I don't recollect that she necessarily
33 had. It was sent, ah, to her - I don't have a photo
34 recollection of why I sent it to her. What would be
35 typical for me to do - and it's possibly on this occasion
36 why - is if there was a staff member in the office who had
37 an expertise in relation to, um, ah, ah, the matter the
38 subject of the letter, I would CC'd into them and seek
39 their opinion - a corporate executive member.

40
41 So you can see that your intent at this stage is for
42 Ms Nowbakht the CFO to sign the letter to the treasurer?---
43 Correct.

44
45 If we go back to the very first page and particularly
46 looking at paragraph 2, are you saying even though the CFO
47 is to be the signatory on the letter that she wasn't the
48 delegated officer? So she said in effect you can only
49 answer the letter through the information you've been
50 provided?---Oh, yes, that was - well, tended to be anything

1 untoward about that. She had not been involved in the
2 procurement itself. Um, she wasn't there for significant
3 material times of the procurement. Um, but the letter was
4 addressed to her seeking a response from her, so that's the
5 reason it was over her name.

6
7 And Ms Marsh hadn't been involved in the procurement
8 either, had she?---Ah, Ms Marsh? Er, no, only in the very
9 latter stages of - of the procurement had she been
10 involved, and that is in the settling of the procurement
11 memo.

12
13 So in terms of the addressees at the top of the screen
14 then, the only person who had the required knowledge to
15 draft the letter was yourself?---Ah, yes, correct. The -
16 the bulk of that letter, um, was information that was held
17 by, um - held by me save for the procurement aspects of
18 which both, um - of which Morgan Marsh had some knowledge.

19
20 Those procurement aspects you're talking about are what in
21 particular?---The settling of the procurement memo.

22
23 She didn't have any knowledge about the substance of that
24 memo, did she? She hadn't been involved?---No, that's not
25 - that's not correct. She - she's been absolutely involved
26 in providing feedback on that memo.

27
28 But she'd only received the memo on 23 October when you
29 sent it to her, correct?---Correct.

30
31 So that was the first time that she had any awareness of
32 the substance of the matters that were in that procurement
33 memo?---Oh, I wasn't suggesting otherwise. I'm saying she
34 - she'd received the memo and had given substantive and, in
35 fact, excellent feedback, and that had been incorporated
36 into the memo.

37
38 And I'm suggesting to you that that substantial and
39 excellent feedback was about process and the requirements
40 of the Procurement Act and rules?---Mm, correct.

41
42 Not about the substance of the project and how you came to
43 procure it?---Oh, no, I wasn't suggesting otherwise.
44 Correct.

45
46 We could go to 0520^.

47
48 0520^

49

1 **NELSON, MS:** So the following day - this is November 9 -
2 you've done final revisions of the letter?---Mm'hmm.
3
4 You can see the next page attaches the letter that we were
5 just looking at. If we can go back to the first page you
6 can see at paragraph 2 you've said that:
7
8 Further bolstering of the fact that this was a
9 procurement that commenced two and a half years ago;
10 long, long before Leyla's appointment.
11
12 So are you suggesting that the procurement commenced some
13 time in 2021?---Correct.
14
15 How did it commence in 2021?---In fact, it may have
16 actually occurred earlier than that. Perhaps I might have
17 even meant three and a half years ago. Um, well, as I say,
18 I only give this answer from my understanding, but my
19 understanding of procurement is a very simple one. Um, it
20 starts with an idea.
21
22 So the idea was yours in 2021, is that what - - -
23
24 **THE COMMISSIONER:** Sorry, it starts with an idea?---Yes.
25
26 And do you say that's the start of the procurement
27 process?---Well, it starts with the idea, ah, for a need
28 for something.
29
30 I understand all that. But when do you say the procurement
31 process starts?---Ah, the first time I identified a need
32 for something was when I read, ah - - -
33
34 I want to be precise. When do you say the procurement
35 process starts? You've just talked about identifying a
36 need?---I just can't remember the date, Commissioner, but
37 it was when I read the European Ombudsman report.
38
39 You say that's the start of - when you read the European
40 Ombudsman's report, that was the start of the procurement
41 process?---That's my understanding of the Procurement Act
42 and the rules.
43
44 A procurement process is supposed to be auditable, is it
45 not?---Yes.
46
47 How do you audit a thought in your head?---Well, you don't.
48 You audit the procurement memo.
49
50 Carry on, counsel.

1 **NELSON, MS:** So you say the genesis was the idea in your
2 head in 2021 or even earlier, but you didn't document that
3 until the procurement memo in October 2023?---Oh, I reduced
4 it - I reduced it to writing at that exact time, that's
5 exactly right.

6
7 Could we have 0153^, thank you.

8
9 0153^

10
11 **NELSON, MS:** I'll just give you a minute to look at that
12 email?---Yes, thank you.

13
14 You recall receiving the marked-up version from Ms Marsh on
15 November 10?---I do.

16
17 And you say in the email that you've accepted all the
18 changes. Can you remember what those changes were?---Not
19 off the top of my head, I'm afraid, no, so sorry.

20
21 If we go to page 3 we can see the changes that you didn't
22 accept by virtue of the comments that you've replied to
23 Ms Marsh. And the first one, Ms Marsh is saying that the
24 CFO was employed from February '23 so how can you say she
25 was not an employee for a significant period of the
26 procurement process. Can you see that initial comment from
27 Ms Marsh?---I can.

28
29 And your response is that the procurement process commenced
30 in 2018 being the idea - identification of the service, and
31 the proceeded from there until contract signing in August
32 2023?---Yes. Well, that was exactly - sorry, correct, and
33 exactly. That is, um, outlined with the Commissioner.

34
35 But as you've said in your previous answer a couple of
36 answers back, there was nothing in writing about that
37 process until the procurement memo of October 2023?---And -
38 and as a - the law couldn't be any clearer; there doesn't
39 need to be. That's the - that's the Procurement Act and
40 Procurement Rules.

41
42 I think I suggested to you in the previous round of public
43 examinations that it's inferred from the Procurement Act
44 and Rules that there would be some documentation, some
45 record of decisions made during the process, not after the
46 contract has been signed?---(a) I don't see how you can
47 infer something into the absolutely clear words of the Act
48 that don't say that that is the case. And second of all,
49 um, and indeed, the Procurement Act and rules are
50 specifically clear throughout them about times when things

1 have to be done within certain days; say 30 days is a
2 typical one. There's nothing in the Act that says that,
3 nor the rules. So I would have thought that the basic, ah,
4 view about statutory interpretation is if the drafters
5 intended that to be the case, they would have said that to
6 be the case. They went to the effort to saying that on a
7 number of occasions that things had to be done within
8 30 days. They certainly don't say that at all about
9 reduction into writing in the Procurement Act or the
10 Procurement Rules. So I think your inference is not right.
11 But the second issue is, in any event, there was
12 substantial, um - there was substantial contemporaneous
13 documentation, and that was all contained in a full manilla
14 folder that was contained as part of the Procurement Act.

15
16 Those records were predominantly email communications
17 between your office and the OECD and the IOI?---Well, no,
18 it's about the substance. It's about the substance of the
19 communications though. They were about contract
20 negotiation. They were about price and term. They were
21 about the scope of the thing. That's everything that
22 should have been in there and everything that should have
23 been part of a procurement.

24
25 **THE COMMISSIONER:** Well, I've read them and I understand
26 there were certainly negotiations about price. What
27 contract negotiations were there?---Well, that goes to the
28 - sorry, Commissioner. That, in my view, goes to the terms
29 of the contract. What the scope was, the price, the term -
30 - -

31
32 You split them into contract negotiations and negotiations
33 about price, except immediately there were negotiations
34 about price. What did you mean by contract negotiations?--
35 -Ah, well, there was a raft of aspects of that contract;
36 for example, where it would be launched. Um, they weren't
37 just about price. It was about the actual content of the
38 contract and the execution of the project. And they were
39 negotiated out, um, by being taken out of the contract. So
40 there was a range of things that were actually part of that
41 contract that were actually negotiated out of the contract
42 indeed by me personally.

43
44 There was no record of decisions that you had made based on
45 those discussions with your, ah, officers or discussions
46 with the OECD. So I'm talking about no decisions about
47 conflicts of interest that may or may otherwise not be
48 present about the value for money proposition for
49 Western Australia?---The conflict - well, but you don't
50 record a conflict of interest that doesn't exist. Oh,

1 sorry. I - that - that's obviously a matter for the
2 Commissioner. But from my perspective, I didn't see any
3 form of conflict of interest, so why - - -
4
5 But that's not - - -?--- - - - would I record it?
6
7 That decision in your head is in your head, it's not
8 recorded anywhere?---But you don't write down "I don't have
9 a conflict of interest". You record down you do have a
10 conflict of interest and how you're managing that conflict
11 of interest. There's nothing on a conflict of interest
12 register that says you write down nil. There's no conflict
13 of interest register in the government that works like
14 that, and it's certainly not conflicts of interest in
15 relation to the Procurement Act. I mean, that's just not -
16 that's just not right, counsel.
17
18 There's no record apart from the procurement memo from
19 October that states any value for money proposition for the
20 OWA entering into the grant agreement?---The value for
21 money, um, ah - - -
22
23 Mr Field, I'm not asking you what you say it is. I'm
24 asking you was there - - -?---Oh, sorry.
25
26 - - - a record prior to the - - -?---I'll listen. I'll
27 listen very carefully to the question and answer it
28 precisely.
29
30 Was there a record prior to the drafting of the procurement
31 memo of the value for money proposition to
32 Western Australia?---Ah, yes, there was. Um, and, ah, in
33 my view, um, that, ah, was, ah, contained in both the
34 negotiations, um, that were part and parcel of the contract
35 all predating the procurement memo.
36
37 So they'd be the emails?---Emails. And of course, public
38 record. I was very public about this being a project and
39 the value of the project to Western Australians. And of
40 course, there was also the discussions with, um, ah, all of
41 the relevant, ah, members of government, um, regarding the
42 value for money for this project and why it was being
43 undertaken. And they were all well before the procurement
44 memo.
45
46 In relation to being public about the agreement, did you
47 make any public statement to the rest of your office - the
48 OWA - about the fact that the OECD project was in
49 negotiation?---But - well, ah - well, just so I'm not in
50 any way appropriately upsetting the Commissioner, the only

1 answer I can give to that is no. I would like to say no,
2 but also on the basis that I didn't announce, um, the
3 Styria MoU. I didn't announce all sorts of things, um, to
4 the staff. They would have been announced at the
5 appropriate time.

6
7 Well, you've just told me though, Mr Field, that you were
8 making public statement about the project prior to
9 entering - - -?---I wasn't - - -

10
11 - - - the agreement?---I wasn't talking about in staff
12 meetings. Um, I was - it would have been in my annual
13 report for 2020. This was too late for the annual report,
14 but it would have been in the '23/'24 annual report
15 from - - -

16
17 But that's after you've entered into the contract. Was
18 there any public statement before OWA signed the contract?--
19 --Ah, if you don't include - which I - I - I can understand
20 you wouldn't. If you don't include the meetings, um, that
21 I had, um, with, ah, ah, the relevant director generals,
22 relevant CEOs, then I don't think there was. I'd have to
23 check my records but I think the answer would be no.

24
25 And there was no document prior to the procurement memo
26 that set out a plan for how the procurement was to be
27 undertaken?---A document?

28
29 A record?---Ah, no. There were discussions with my staff
30 and delegations, ah, to undertake the project. No. That's
31 what there was.

32
33 And before the procurement memo was drafted, there was no
34 record of you applying the sole supplier exemption to the -
35 ah, your approval that you enter into the project with the
36 OECD?---Sorry, what was that?

37
38 There was no record of you applying the sole supplier
39 exemption prior to the procurement memo being drafted?---
40 That's - that's absolutely incorrect.

41
42 So you say there was a record that you had applied that
43 exemption to the OECD?---I'd indicated very clearly, um,
44 to, ah, my staff, um, ah, that this was a procurement and
45 the OECD was a sole source supplier.

46
47 But it's - - -

48

1 **THE COMMISSIONER:** That's what you've indicated to your
2 staff but that wasn't the question that was asked of you?
3 ---Well, it's a record.

4
5 **NELSON, MS:** So if there is an email that says to your
6 staff you say that is the record of you applying that
7 sole - - -?---Oh, no. Sorry. And I can see the
8 Commissioner shaking his head quite correctly. Um, no.
9 The record, Commissioner, was the OECD memo.

10
11 **THE COMMISSIONER:** Thank you.

12
13 **NELSON, MS:** The procurement memo?---Correct. And I did
14 not mean to in any way mislead the Commissioner by saying
15 that. I was just trying to say I had told my staff about
16 that. That was in writing. But the lawful recording of
17 that in my view was in the memo.

18
19 **THE COMMISSIONER:** Thank you for that clarification.

20
21 **NELSON, MS:** And, ah, so you say you told your staff about
22 that, so that was in the form of an email to staff, was
23 it?---To the relevant staff who were working on the OECD
24 matter.

25
26 Right. We're going back to 0513.

27
28 0513^

29
30 If we could go to the next page, thank you, page 4. So
31 Ms Marsh has queried whether - I'll just give you a moment
32 to read that?---Um, MM3?

33
34 Yes?---Yep.

35
36 So my understanding of her comment there is that she is
37 querying whether you can suggest to the treasurer that she
38 has some knowledge of the OWA's SBP or budget process from
39 February 2023. Is that how you understood the comment?---
40 Yes. I think exactly what she was trying to say, um, was,
41 ah, would the treasurer, ah, be aware of that, um, ah, SBP.
42 And of course, I thought that was not correct.

43
44 And then MM5. So she's asking for clarification as to
45 facts in relation to who the briefings were provided to?
46 ---Yes.

47
48 And then MM7 she's made a comment about a particular, um,
49 paragraph back to A which you have corrected?---Correct.

50

1 And then if we just scroll through to the next page, there
2 aren't any comments. And you've included the - the actual
3 words from the streamlined budget process?---Yes.

4
5 And then over to the next page, there aren't any comments.
6 Um, you said - if we go back to page 1 - it might have been
7 in the earlier email. Do you recall that you told Morgan
8 and Leyla that there was to be an attachment - a memorandum
9 attached to this letter?---A memorandum? I don't - I - I -
10 I know there was discussion about attaching, ah, the
11 procurement memo and the various, ah, emails evidencing the
12 procurement. I think there was a discussion about that.

13
14 We have 05 - - -?---I don't have a photo - I'm sorry -
15 sorry, counsel. I just don't have a photo recollection.

16
17 I will assist. 0529^ page 1.

18
19 0529^

20
21 You say:

22
23 I will mark up the letter.

24
25 And then in the next paragraph:

26
27 I think it may simply be best to attach the memo I
28 have prepared or summary from it.

29
30 And do you recall that the ultimate letter that was sent
31 did have a memo attached to it for the treasurer?---Yes. I
32 - well, I can't - now, I'm out of order on which letter
33 this was. Um, ah, whether this was the letter with the,
34 um, unheard of in 17 years put it in the brown paper
35 envelope type delivery. But if that's what it was, it had
36 a zip file attached to it and - with the memorandum and,
37 um, ah - and the, ah, guide - the various, um, emails that
38 evidenced the procurement was my recollection.

39
40 And that was a memorandum that you had prepared?---Correct.

41
42 Could I have 0519?

43
44 0519^

45
46 From 12 November you've attached a document, and so this is
47 the final version of procurement memo. And that you give
48 those instructions that I think you just spoke to?---Yes,
49 correct. That - that certainly, um, reminds me. Correct.

50

1 And I think we discussed it last time, but if we could have
2 0158.
3
4 0158^
5
6 And do you recognise this document?---I do.
7
8 So this is the procurement memo that went with the letter
9 to the treasurer dated 14 November?---Correct.
10
11 And, Madam Associate, if hard copies of that could be
12 passed out as well as the actual letter of 13 November
13 which is 0517.
14
15 **THE COMMISSIONER:** I have one.
16
17 You might have one too, Mr Porter. If not, we'll give you
18 one, but I don't want you to drown in paper.
19
20 **PORTER, MR:** Commissioner, I have ample.
21
22 **THE COMMISSIONER:** Mr Porter has one, so - - -
23
24 **NELSON, MS:** So it's your decision, Mr Field, to attach
25 this procurement memo to the letter to the treasurer of
26 13 November?---Ah, I - I don't remember there being any
27 discussion about it, but I certainly, um, ah - I certainly
28 would have made the decision to do it. It wouldn't have
29 gone without my - my permission. So I don't have a photo
30 recollection, but yes. Yes is the only short answer to
31 that.
32
33 And you prepared the memo?---Correct.
34
35 Did you prepare it in discussion with anyone else?---Ah,
36 the memo? No. this was a memo that I prepared. Um, and I
37 did seek, ah, input from - I think there might have been an
38 email earlier about it but I did - I did seek input, um,
39 ah, ah, from, ah, Morgan and Leyla. Potentially Belinda.
40 I can't remember.
41
42 And from Ms Poole as well?---I don't know if I got - that I
43 don't recollect. I may have. I don't recollect that.
44
45 If you could go to the second page - - -?---Yes.
46
47 - - - we can see the contents. And then through to the
48 third page?---Yes. Oh, Commissioner, with your indulgence
49 - I'm so sorry. Um, what I should say is - what I can say
50 for certainty is that the original document which - we were

1 talking about it yesterday. 18 September it might have
2 been. Yes. That - I - that was a - information from that
3 was information that I also referred - referenced in
4 relation to the preparation of this.

5
6 I see?---So I'm sorry. I think in that sense, I gave a
7 misleading answer which I didn't intend. So yes, there was
8 that input from Rebecca. Were there any others? I can't
9 remember.

10
11 **THE COMMISSIONER:** Sorry. I think you've answered this, I
12 just didn't make a note. When did you prepare this?---Oh,
13 the exact date, um, ah - I commenced preparing it when I
14 asked for the 18 September document from, ah, Rebecca. It
15 was around about that time but I - - -

16
17 So 20 October?---Well - - -

18
19 Sorry. I don't want to detract - - -?---No, no.

20
21 - - - from counsel. I just want a short answer. When did
22 you prepare it?---It's - it's - it's - it's - it's, um -
23 yeah. I could be precise if I went back to my records, I
24 think, Commissioner, if you wanted those. My email
25 records.

26
27 For my purposes for my notes, I think it was 20 October you
28 called for the matter. And the letter to the deputy
29 premier was 13 November. So would it be fair to say that
30 it was prepared between those dates?---This particular
31 document?

32
33 Yes?---Yes, I think that's correct.

34
35 Thank you.

36
37 Sorry, counsel. Carry on.

38
39 **NELSON, MS:** Thank you, Commissioner.

40
41 And further to that, your evidence yesterday was you
42 received Ms Poole's version of the memo - - -?---Correct.

43
44 - - - dated 18 September?---Correct.

45
46 And that is 0199. You received that in mid-October and you
47 produced then a further iteration of that which you dated
48 20 October 2023 which became the procurement memo you sent
49 to Ms Marsh on 23 October?---Yes. That's I think a good
50 recollection or a good reminder to me of my recollection.

1 So are you saying that you went back to Ms Poole's
2 18 September version to do this or did you use your
3 20 October version to - - -?---Oh.

4
5 - - - correct this?---That I don't recollect. I suspect I
6 probably used - I might have used both. I might have
7 looked at both when I commenced it.

8
9 Thank you. So on page 3 you talk about the procurement
10 rules and how the OWA is subject to them as a state
11 agency?---Yes.

12
13 And then if we could go to page 4 - see the whole of
14 page 4, thank you. So under the heading of 1.1, "Service
15 previously procured by - - -

16
17 **THE COMMISSIONER:** Well, wait one moment, Ms Nelson. I
18 want to give you time to read. So when you're ready, tell
19 counsel?---Thank you, Commissioner. Thank you,
20 Commissioner. Go ahead, counsel.

21
22 **NELSON, MS:** Perhaps if I could have 0114 also on the
23 screen, please, Madam Associate.

24
25 0114^

26
27 And the second page of 0114. Yes. The content that you
28 have put into the 0158 at 1.1.1, what appears in your
29 20 October memorandum under the heading "OECD project with
30 the European Ombudsman" ?---Um, and that's, um, my
31 recollection, um, counsel. That I was - I had a document
32 before me which I considered to be a procurement document.
33 The one on the right-hand side of the screen there. Um,
34 and - but I felt it wasn't, um, as robust as it should have
35 been, um, for a procurement, and wanted to improve that
36 document.

37
38 Thank you. Now, if we could go to page 5 of 0158^. In the
39 paragraph starting:

40
41 In October 2018, following the release of the
42 European Ombudsman and OECD report.

43
44 I'll just give you a minute to read that paragraph?---Yes.

45
46 What was the relevance of the IOI bylaws review to the OWA
47 entering into the procurement with the OECD?---Oh, that
48 was, ah, a reference to, ah, the fact that prior to that
49 time - and it goes very much back to the point I made
50 before about Ms Poole's reluctance about this project, um,

1 was, ah, that the bylaws reform had been a considerable
2 piece of work for the office, um, and I thought there was
3 time to be able to dedicate to this project since the
4 bylaws reform project had actually finalised.

5
6 In October 2018, was it your intention that the IOI also
7 have some involvement in the OECD report that you wanted
8 the OWA to do with the OECD?---Yes, as I say, it was an
9 iterative project over many years, and, um, my views
10 continued to evolve about it as time went forward. Um, and
11 at the - I had always had the view that - just as the
12 European Ombudsman report was the European and the OECD
13 report, that this would be an Ombudsman WA and OECD report,
14 but I always wanted the IOI involved in some way.

15
16 Why did you not then state that clearly in that paragraph?
17 ---All is - sorry, clear throughout the entire document,
18 that's why, ah, we sought a \$50,000 contribution from the
19 IOI.

20
21 You've said clearly that the project was to be undertaken
22 by the Ombudsman of Western Australia at some stage for
23 Western Australian and Asian-Pacific context?---Exactly,
24 that was the project. The project was a project of the
25 Office of the Ombudsman Western Australia working with the
26 OECD, um, ah, for advantage to Western Australians, but
27 with a particular, um, what I perceived advantage, as we
28 are a trading state, solely reliant upon trade, that we
29 would work with our, um, close friends and neighbours in
30 the Asia-Pacific region to leverage advantage in those
31 relationships through this project. That was the gravamen,
32 that was the crux of the project, that's always what it was
33 from day one.

34
35 Well - - -?---But I also thought that the IOI had a role in
36 that.

37
38 But you omit to say that in that paragraph, Mr Field, you
39 don't say that there's any IOI involvement in the project
40 in that paragraph?---Well, it's a 30-page document, I mean,
41 it's littered through this document, including them giving
42 \$50,000 to the project.

43
44 **THE COMMISSIONER:** We will go through the document, I'm
45 sure counsel will go through it, but the proposition that
46 counsel has just put - - -?---Then I'll say no.

47
48 **NELSON, MS:** And at the bottom of page 5 then, under the
49 heading 'Considerations relevant to a view formed in good
50 faith of a need to procure the service'. So, the first dot

1 point that Western Australia would benefit from a rigorous
2 report examining how the Ombudsman of Western Australia
3 could have further positive involvement, et cetera, et
4 cetera, you don't mention the IOI at all?---I'm sorry
5 counsel, can I - and Commissioner, I'm very, very sorry
6 about this. When - obviously just stop me, but when - were
7 you referring to the paragraph that says 'prior to 2018'
8 when you were saying there was no IOI mentioned in there?

9
10 No, I was referring to the paragraph, 'In October 2018'?
11 ---I'm so sorry, Commissioner, I was looking at the prior
12 to 2018. Can I reread that 'In October 2018'?

13
14 **THE COMMISSIONER:** Feel free to reread?---I was looking at
15 the wrong paragraph.

16
17 Just - I don't want you to be in a position of answering
18 before you've had an opportunity to read, so take as long
19 as you'd like?---Sorry Commissioner, I was looking at the
20 wrong paragraph. Well, then I can keep my answer short by
21 saying no. Now, having read the correct paragraph, to the
22 question you've asked.

23
24 **NELSON, MS:** Could I get you to read all of what's under
25 1.1.2, considerations relevant to a view formed in good
26 faith for the need to procure the service. It goes on the
27 bottom of page 5 over to the end of page 6, and over onto
28 page 7?---I can actually - yes, of course. Yes, thank you.

29
30 Would you agree that that whole section has - or presents
31 the project as being very WA-focused in terms of the
32 purpose and the outcome of the project?---Ah, well not -
33 well, WA-focused in - in an answer just to say yes, um, but
34 also WA-focused in the sense that, um, ah, it very strongly
35 engaged with the Asia-Pacific region. So, is that WA-
36 focused? Yes, it is, but it was very much focused in the
37 Asia-Pacific region as well.

38
39 Well, it talks about how the Ombudsman of Western Australia
40 would have positive involvement in - would be examined by
41 the report, that it would advance the functions of the
42 Ombudsman of Western Australia, that it would drive further
43 improvements to the way that the Ombudsman of Western
44 Australia engaged with Aboriginal Western Australians,
45 refugee communities and other diaspora communities?---Yes.

46
47 And then it would also have a result of a significant
48 advancement in the digital sphere, and how the Ombudsman of
49 Western Australia and other Ombudsman institutions ensure
50 their services are best services by the digital sphere, et

1 cetera. So, it's not until page 7, so if we could have
2 page 7 - - -?---Oh, no, no, hang on, we've just gone
3 straight over point 6, which is profound:

4
5 The proposed project was consistent with the fact
6 that the adherence of the rule of law reduces
7 sovereign risk and encourages private capital
8 investment is essential to a strong Western
9 Australian economy.

10
11 Yes, that is also focused on how it's going to impact on
12 Western Australia?---Well, it's only in the sense that what
13 it's focusing in on is our Asia-Pacific neighbours. That
14 is a very much outward-looking focusing on the Asia-
15 Pacific. Perhaps I've worded it inelegantly, but I can
16 tell you what the intent was. That was the intent of, um,
17 the focus we would have on our major trading partners in
18 our region, that is what that was intended to do.

19
20 And that is an incidental outcome of the proposal, in that
21 the proposal itself doesn't reference strong economies?
22 ---It was never incidental, it was absolutely fundamental.
23 That's what the OECD is, that's why we were doing a project
24 with the OECD. The OECD is about bullet point five, why
25 would you be doing a project with the OECD if you weren't
26 doing that? That was my whole point about doing the
27 project with the OECD from day one.

28
29 If we go over to page 7, and I'll come back to page 6. So,
30 it's not until partway through page 7 that you reference
31 the IOI in terms of you being the first Australian
32 president?---Yes.

33 And that that provided an opportunity to pursue the project
34 in a way that involved the IOI in the proposed project?

35 ---Correct. And the bullet point above that of course
36 profoundly reinforces the point I was making about, um, if
37 not the gravamen, the absolute central point of an OECD
38 project.

39
40 Now, the whole point of the last half of page 5, all of
41 page 6 and page 7, is to convey to the Treasurer the need
42 to procure the service from the OECD?---I wasn't conveying
43 anything to the Treasurer.

44
45 Well that's the heading, page 5. 'Considerations relevant
46 to a view formed in good faith of a need to procure the
47 service'?---No, no, that wasn't conveying anything. I
48 wasn't writing to the Treasurers, I wasn't conveying
49 anything to the Treasurer, I had utter contempt for that
50 letter to the Treasurer, and I wasn't conveying anything to

1 the - - -

2

3 **THE COMMISSIONER:** Sorry, you had what?---I had contempt
4 for that letter from the Treasurer, I wasn't conveying
5 anything to the letter to the Treasurer.

6

7 Was this sent to the Treasurer?---No, what I - - -

8

9 Was this sent to the Treasurer?---Yes.

10

11 Well then it's conveyed to the Treasurer?---Well, it was
12 sent to the Treasurer. I think the inference is being made
13 is that I wrote this memo to convey a message to the
14 Treasurer. That's what I thought the inference was that was
15 being made. I thought that was pretty clear.

16

17 That is very definitely the inference?---Indeed, and it's
18 absolutely outrageously untrue.

19

20 Well, it's not outrageous or inappropriate, it is a fair
21 inference from what is written. Whether it's the inference
22 I draw at the end is an entirely different matter. But
23 when you send a letter to somebody, you've conveyed it to
24 them, and I would have thought that's plain, and I'm not
25 going to parse. Carry on?---Well, I'm sorry, in answering
26 that question, the letter I gave to the Treasurer, which
27 was a letter from the Treasurer, as I've already indicated,
28 that I somehow by just miracle received a couple of weeks
29 after - sorry, two weeks after I've written to her acting
30 chief of staff, or so-called acting chief of staff about
31 this project, ah, seeking to have this project ended, to
32 take it off the front page of the newspaper, because it was
33 considered a political problem. The department in the
34 state that actually audits and reviews procurements is not
35 the Treasury Department, but the Minister for Finance.
36 That's under the Financial Management Act. I didn't
37 receive any correspondence from the Department of Finance
38 or the Minister for Finance, I received a letter from the
39 Treasurer, and - and it just seemed to be passingly strange
40 that I received that from the person who was well-known and
41 well-documented to be her acting chief of staff, or her
42 real chief of staff, after I had emailed him about this
43 very project. But the letter I sent to the Treasurer was
44 absolutely no inference required, that was all directed
45 towards the Treasurer, every word of that.

46

47 **NELSON, MS:** And was it correct - was everything in that
48 letter true in your estimation?---Absolutely, but attaching
49 the memo - this memo wasn't written for the Treasurer, this
50 was a procurement memo prepared under the Procurement Act

1 and the Procurement rules, which I thought should be
2 attached to the letter as proof of the procurement that had
3 been undertaken.

4

5 And you prepared it for the purpose of sending it to the
6 Treasurer?---I absolutely did not.

7

8 You used your earlier version, the 20 October version, to
9 create this document?---Yes. I absolutely did not prepare
10 this for the purposes of giving it to the Treasurer, I
11 absolutely did not.

12

13 Well, who did you prepare it for then?---Because under the
14 Procurement Act and Procurement Rules, you have to have a
15 procurement memo for procurements that you're undertaking,
16 I didn't prepare it for the Treasurer. And of course, I'd
17 been asking for a procurement memo to be prepared for some
18 considerable period of time.

19

20 So you prepared it?---Yes.

21

22 And you determined and directed that it be sent to the
23 Treasurer attached to the letter of 13 November?---Yes, but
24 I didn't prepare it for the Treasurer.

25

26 **THE COMMISSIONER:** We're going around in circles.

27

28 **NELSON, MS:** Is there anything in this procurement memo,
29 0158^, that is not correct from your point of view, or is
30 all true?---That's the procurement memo?

31

32 Yes?---Ah, no, I consider that to be, ah, an exceptionally
33 strong, um, ah, process of procurement, far exceeding what
34 would normally be done for a procurement of that size of
35 money, um, under the Procurement Act and the Procurement
36 Rules. Was it prepared for the Treasurer? Absolutely,
37 fundamentally it was not.

38

39 But it was sent to the Treasurer?---Yes, but it wasn't
40 prepared for her.

41

42 It was sent to - - -

43

44 **THE COMMISSIONER:** Well as I say, we're going around in
45 circles.

46

47 **NELSON, MS:** Okay, thank you Commissioner.

48

1 **THE COMMISSIONER:** I have no doubt that a letter that is -
2 something that is attached to a letter is intended for the
3 recipient of the letter.

4
5 **NELSON, MS:** Thank you, Commissioner. So, I want to
6 suggest to you, Mr Field, that in drafting the bullet
7 points that appear under the heading 'Considerations
8 relevant to a view formed in good faith of a need to
9 procure the service', you omitted to refer to the IOI, and
10 you focused the attention on what you saw to be the
11 benefits to Western Australia?---It's just absolutely,
12 completely not correct.

13
14 And in doing so, you misrepresented what the project
15 proposal with the OECD stated as contained in the agreement
16 that you signed?---Absolutely, completely incorrect.

17
18 You misrepresented it because you omitted to refer to the
19 IOI, and you added in the Ombudsman of Western Australia
20 when in fact the proposal only referred to generic
21 Ombudsman institutions, and you added in reference to
22 particular Western Australian communities, such as
23 Aboriginal Western Australians, refugee communities,
24 LGBTQTIA community, as a way of portraying a nexus to your
25 functions under the Parliamentary Commissioner Act?---Ah,
26 absolutely and completely, um, ah, absolutely and
27 completely incorrect. Utterly inconsistent with my
28 passionate commitment to all of those matters that you've
29 just outlined over 17 years, and, um, and this document
30 doesn't hide the IOI in any shape or form, it's blatantly
31 clear about the IOI all through the document.

32
33 Why is this document not dated, Mr Field?---Well there's
34 certainly nothing deliberate about, ah, not dating it. Um,
35 and it was sent on a certain date, um, from my computer,
36 and that would be the date. I certainly wasn't trying to
37 hide the date it was done.

38 We'll go to page 9, thank you. So, on page 9 you've
39 referenced the meeting with Mr Cormann on 13 June 2022, and
40 then the subsequent meeting with Brendan Pearson on 15 June
41 2022. The meeting with Mr Pearson had nothing to do with
42 the OECD project, did it?---Well, that's not correct. I -
43 I - I met with him to discuss the meeting I'd had with the
44 Secretary-General of the OECD.

45
46 A meeting that you'd had as the president of the IOI?---Mm,
47 correct.

48
49 To discuss collaboration and very high-level rule of law,
50 governance, human rights issues with him?---No, to discuss

1 the fact - well, all of those things, correct, and also to
2 discuss the fact that, um, it was my intention to do a
3 project with the OECD, that would have been discussed with
4 Mr Pearson.

5
6 And you have copied into this email also the reference to
7 the telephone conversation on 11 June 2022 with Rebecca
8 Brown?---Correct.

9
10 That telephone conversation had no relevance to the OECD
11 project?---I can't possibly agree with that. I rang
12 Rebecca Brown to discuss with her the fact that I was
13 meeting with Mathias Cormann.

14
15 And that was the extent of the conversation about the OECD,
16 wasn't it?---Well no, and - and - and nor was the
17 debriefing conversation that I held when I got back from
18 the meeting the OECD with Rebecca Brown. Ah, it was to
19 discuss the scope of what I was discussing. In fact, I've
20 already answered this question because I answered it
21 yesterday, yeah.

22
23 We'll move on. So the last sentence on that page:

24
25 Further in June 2022 the Ombudsman appointed
26 delegated officers for the proposed procurement.

27
28 That did not happen, did it, Mr Field?---Delegated officers
29 were appointed under the delegations register. They were -
30 they were officers under the register - the delegations
31 register.

32
33 So in June 2022 you didn't appoint delegated officers for
34 the purpose of this particular procurement, did you?---You
35 - but you don't.

36
37 **THE COMMISSIONER:**

38
39 Further in June 2022 the Ombudsman appointed
40 delegated officers for the proposed procurement.

41
42 ?---Oh, so - - -

43
44 Who did you appoint in June 2022?---So I think that should
45 be clarified, correct, Commissioner. The delegation - so
46 in June '22 that would have been when I was having
47 conversations in the first instance with Rebecca Poole
48 about undertaking that thing. Did there need to be a
49 further delegation of that? No, because she was a
50 delegated officer under our delegations register.

1 That's not what it says?---But you don't make separate
2 appointments, um, Commissioner, because that's not - - -
3

4 No, no, I don't care what you do or you do not. What is
5 here is the words is counsel putting to you. Did you in
6 June 2022 appoint delegated officers?---I did, Rebecca
7 Poole.
8

9 So somewhere there will be an instrument of delegation
10 dated June 2022 recording that point?---No, because that's
11 not - that's not what the delegations register does. The
12 delegations register is a register of all those people who
13 are delegated to make decisions. And I delegated that to a
14 delegated officer. That's - that's - - -
15

16 You delegated her for the proposed procurement?---Correct.
17 And I knew she was an officer who was otherwise delegated
18 as a branch - branch manager under our delegations register
19 to do that. If she hadn't been a branch manager under that
20 delegations register then I would have had to have done
21 something about it. Then I would have to have separately
22 delegated her. That's completely correct.
23

24 **THE COMMISSIONER:** Well, words speak for themselves.
25

26 **NELSON, MS:** If we could go to page 10, thank you. In the
27 middle of that page you've said:
28

29 In accordance with rule 1A being the achieved value
30 for money rule, the project was assessed by delegated
31 officers as being a procurement that achieves value
32 for money.
33

34 I think I know the answer to that, but there was no written
35 assessment in existence, was there?---Well, this is the
36 written assessment of it being, um, the case.
37

38 You've said it in the past tense, 'Was assessed by the
39 delegated officers,' presumably the one that the
40 Commissioner was just asking you about which you referred
41 on the previous page. Are you trying to convey that after
42 June 2022 that the delegated officers did something in
43 particular in relation to this project to demonstrate that
44 it achieved value for money?---This was the reduction into
45 writing of an assessment of which I was aware, um, about
46 the value for money for the project. This is - this - that
47 statement is completely in accordance with the Procurement
48 Act and the Procurement Rules.
49

1 If we go to the heading '1.2.1 Government, Social, and
2 Economic and Environment Priorities', consideration was
3 given to those two dot points. Are you saying the
4 consideration is this memorandum or was it - - -?---
5 Correct.

6
7 You are?---Correct. There were contemporaneous discussions
8 about these matters, er, between Rebecca and I about these
9 matters. But, yes, this is the reduction into writing
10 about it.

11
12 So any consideration that had happened prior to reducing
13 this document to writing was just a discussion and it
14 didn't appear anywhere in a record?---There wasn't a
15 record. There was - there was verbal discussions, that's
16 exactly correct.

17
18 And you say that those then five dot points are a
19 justification for how the project achieves the government's
20 social, economic, and environmental priorities?---Correct.

21
22 The social priorities that you reference there are
23 extremely high level, aren't they, Mr Field; protecting
24 human rights, protecting good governance and the rule of
25 law?---So are the priorities.

26
27 Where did you get those social priorities of the government
28 at the time from?---They're in the Procurement Act and
29 Procurement Rules is my recollection, or the guidelines to
30 them.

31
32 If we go to page 11, thank you, the three dot points on
33 page 11 reference that:

34
35 The Ombudsman of Western Australia is undertaking the
36 project and procuring the services of the OECD -

37
38 as the beginning phrase for each of those three dot points.
39 I suggest that you've omitted to mention the IOI as having
40 any role in the project?---Sorry, which reference is this?

41
42 Page 11, the top three dot points that are on the screen.
43 You've started off the justification that you've
44 articulated in each dot point using the same phrase:

45
46 Ombudsman Western Australia undertaking the project
47 and procuring the services of the OECD.

48
49 ?---But that's - that's because the government's social,
50 economic, and environmental priorities are those to which a

1 public sector agency in Western Australia turns its - turns
2 its mind. It would have been completely inappropriate to
3 be talking about the IOI in that particular section of this
4 procurement. You're talking about what consideration has a
5 public sector agency in Western Australia given to those
6 priorities. It just wouldn't have been even appropriate to
7 mention the IOI in that.

8
9 Would it have been appropriate to have mentioned anywhere
10 in this memorandum that the IOI were involved in the
11 project and being given a copy of the output of the
12 project?---They are, and extensively. Page 12 for a start.

13
14 **THE COMMISSIONER:** Well:

15
16 The project has been able to be expanded and deliver
17 scale through the IOI.

18
19 ?---Exactly.

20
21 Is that a correct statement?---That's exactly - and that is
22 - Commissioner, that is exactly the way, um, - now, of
23 course, it will be a matter for you to determine whether
24 you believe me, but that is exactly the way I always from
25 day one envisaged this project. It was a project between
26 the OWA and the OECD. And it so happened that we had this
27 fantastic confluence of events where I was both the
28 president of the IOI and Mathias Cormann was a Western
29 Australian and the secretary-general of the OECD, and we
30 could expand the value of that project beyond just the
31 Western Australian and the Asia-Pacific region to other
32 regions. And that's exactly what that's trying to capture.

33
34 **NELSON, MS:** The records that we have seen during the
35 course of all your public examination, Mr Field, have never
36 limited the project proposal to the Asia-Pacific region,
37 have they?---But - but that's exactly right, it didn't.
38 I've just - - -

39
40 **THE COMMISSIONER:** Just listen to the question. Answer
41 that question?---All right. Well, sorry, but, yeah, I - I
42 apologise. No, I did listen. Um, the answer is, ah, no.
43 The clear focus of every part of my discussion about this
44 and/or writings about this and this memo and my discussions
45 with every director general and CEO was this was a project
46 being done by the Ombudsman that would benefit Western
47 Australia and our near Asian trading partners, but it had a
48 bonus factor - a factor that was good for scale and scope
49 efficiency as well - which was to expand this project out
50 to other regions. And we couldn't pay for that. Western

1 Australia shouldn't be paying for the benefit that North
2 America was getting. The IOI was paying for that, 50,000.

3

4 **NELSON, MS:** So you're suggesting that the contribution by
5 the IOI, the €50,000, was for the expansion of the project
6 to Africa, North America, South America, Europe?---That was
7 always the view I had about the project.

8

9 And the €77,000 that we were contributing was only for the
10 Asia-Pacific region?---For Western Australia and the
11 Asia-Pacific region. Now, I - I want to be absolutely
12 honest with the Commission. Of course, did that mean the
13 work we were doing here that other - it wouldn't have
14 benefit for other people? I'm not suggesting for a moment
15 that's not the case. That, for example, if we'd done the
16 project and then the ombudsman - my exceptional colleagues
17 in Africa had looked at the project and said, 'Hey, there's
18 some real value for us in that,' effectively free-riding on
19 the project, I perfectly understood that could happen. I'm
20 not denying that for a second.

21

22 Mr Field, are you suggesting that the project was going to
23 be just for Western Australia, the Asia-Pacific benefit
24 with the OECD, and out of the goodness of your heart you
25 expanded it to all the other regions of the IOI? Is that
26 what you're suggesting?---Not out of the goodness of my
27 heart; out of the \$50,000 that they were contributing.

28

29 Mr Field, it was never going to be constrained
30 geographically to the Asia-Pacific region. From day one it
31 was going to be about involving all of the areas of the
32 IOI?---No, you're completely wrong. Um, and every
33 conversation that I've had with every stakeholder had - has
34 made very clear all along that this OECD project was a
35 project for Western Australia and the Asia-Pacific region,
36 our trading partners, which was a huge part of my
37 presidency in every piece of correspondence, in every
38 single discussion about my presidency. This was about what
39 - how it could benefit Western Australia and how it could
40 benefit Western Australia's trading partners, and that was
41 principally in the Asia-Pacific. Not entirely limited to
42 the Asia-Pacific - see, for example, Styria and the MOU -
43 but possibly others. Um, and did I see that it necessarily
44 was the case that it was absolutely obvious that this
45 should be done for, say, North America? I thought it was a
46 great idea it was done for North America, but I didn't
47 think Western Australian taxpayers would necessarily be
48 paying for that, hence the €50,000 from the IOI. Now - - -

49

1 **THE COMMISSIONER:** Mr Field, I'm just looking at the
2 contract outputs:

3
4 A survey that the OECD will submit to the donor, who
5 will in turn distribute it among the members of the
6 International Ombudsman Institute notably in Africa,
7 Asia, Australasia and Pacific, and North America.

8
9 That was in the contract?---Yeah, and - - -

10
11 Why isn't it in the procurement memo?---Well, it was very
12 much similar, like, to the European, ah - - -

13
14 No, no?---Oh.

15
16 Why wasn't that in the procurement memo?---It wasn't
17 germane to a memo under the Procurement Act or the
18 Procurement Rules from my perspective. And it certainly
19 wasn't in any way to hide that fact. It wasn't in any way
20 to be dishonest about it. I didn't think it was actually
21 germane or relevant to a memorandum under the Procurement
22 Act and the Procurement Rules. But it's certainly true to
23 do that survey was exactly what the Europeans had done even
24 though that was a project principally for Europe. Because
25 they went to the whole world to get ideas about best
26 practice and benchmarking to use in their own region, and
27 we were going to do the same thing. So if it turned out we
28 got survey results that all through, say, Latin America
29 they were doing particular things which we thought were
30 particularly worthwhile, that was something we would learn
31 from.

32
33 Which is why it was to be distributed to everyone?---
34 Exactly, yeah.

35
36 **NELSON, MS:** If we could go to page 13, thank you. You've
37 certified at the top of the page that the value for money
38 assessment under the Procurement Rules was undertaken?---
39 Oh, sorry, page?

40
41 Thirteen?---So sorry. Yes.

42
43 When was that undertaken? Because this is undated?---As I
44 say, um, the - the undated was - - -

45
46 **THE COMMISSIONER:** The question is simply when?---Okay,
47 not - that's not the question.

48

1 The question is when?---When. Um, it was done at the same
2 time that the procurement memo was done, which was in that
3 October period. That's the reduction to writing.

4
5 You'd have to do the value for money assessment before you
6 procure the goods, wouldn't you? No point in doing it
7 after?---Oh, well, yeah, certainly. It just - - -

8
9 So when was the question counsel asked?---Well, it was done
10 - it was done, ah, throughout that period, um, and prior
11 to, ah, me seeking the money from both the government and
12 the IOI. So that would have been in early 2023. But this
13 is the reduction to writing of that.

14
15 I appreciate this is a reduction to writing. I appreciate
16 from your evidence there is no document that indicates a
17 value for money assessment, which is why counsel asked you
18 when it was done. Your answer is - - -?---Ah, it would
19 have been done - it was done in the early parts of 2023 is
20 my recollection.

21
22 **NELSON, MS:** If we could go to page 14, thank you. At the
23 top of the page you have said there were no conflicts of
24 interest to declare?---Correct.

25
26 So you accept that that is a matter that needs to be
27 addressed in a procurement exercise then, Mr Field?---
28 There's a specific requirement under the Procurement Rules,
29 um, that you note no conflict of interest, correct.

30
31 Prior to the last break I think you told me that that was
32 not a requirement; if there was no conflict you don't need
33 to record it?---No, that's not what I said.

34
35 Okay?---I - yeah.

36
37 We go back to page 7, thank you. I just want to look at
38 footnote 4?---And I just said that's not what I said
39 though.

40
41 **THE COMMISSIONER:** Well, the transcript will show what you
42 said one way or the other?---Well, I was talking about
43 conflict of interest registers at my workplace, not this
44 memo.

45
46 **NELSON, MS:** Bottom of page 7. So in footnote 4 you have
47 recorded that there was, in effect, no conflict of interest
48 in respect of your relationship or no relationship with the
49 secretary general of the OECD?---Correct. Correct.

50

1 And you didn't think to make a declaration in relation to
2 your presidency of the IOI?---It's not a conflict of
3 interest.

4
5 If we go back to page 14, thank you. And under the heading
6 'Keeping Adequate Records', perhaps we could have that
7 whole portion on the screen, thank you, Madam Associate.
8 I'll give you a minute to look at that?---Thank you. Thank
9 you.

10
11 You're a member, I believe, of the State Records Commission
12 by virtue of the fact that you're the Parliamentary
13 Commissioner for Administrative Investigations?---I am
14 indeed.

15
16 And as a member of that commission you would be well aware
17 of the requirement for government agencies to keep records
18 of all decisions made?---I am indeed.

19
20 Do you consider that you have complied with that obligation
21 in relation to the whole of the OECD project procurement
22 exercise?---Unquestionably.

23
24 As the contract manager you have the responsibility to
25 capture all contract records - - -?---Yes.

26
27 - - - under your own record-keeping plan?---Yes.

28
29 And do you consider that you have done that adequately in
30 relation to this project?---Ah, well, there's no
31 requirement to keep ephemera, and that wouldn't have been
32 kept. Um, in relation to keeping records, ah, I'd be
33 surprised if there's another 28-page memo for any \$200,000
34 procurement in Western Australia as of today. So the
35 answer is yes.

36
37 But would you accept that under the Procurement Rules
38 you're required to enter a contract of this size in the
39 contract register of the agency?---Oh, no, well, um,
40 unquestionably yes.

41
42 And have you done so?---Ah, no, because the - two reasons:
43 because the treasurer's letter was received, and second of
44 all, because of this inquiry.

45
46 If the treasurer's letter was received nearly three months
47 after you'd entered into the contract?---No, not even close
48 to that. That's not correct.

49

1 **THE COMMISSIONER:** Well, you entered into the contract in
2 August, and it was countersigned in September?---Yes.

3
4 The treasurer's letter was in November?---My calculation is
5 that there was 15 business days between the contract being
6 entered into and the treasurer's letter being received.
7 And, um, ah, Commissioner, let me make absolutely clear I
8 consider that 15 days to be a period of non-compliance.
9 After that 15 days, um, ah, it was my view that it was
10 disrespectful to this Commission and also not appropriate
11 in relation to having received that letter to - indeed, if
12 it had been on there, I would have taken it off is my view.
13 Um, but I make absolutely, um, ah, ah - I want be, ah,
14 utterly honest and - and - and completely responsible. I
15 take responsibility for those 15 days of non-compliance.

16
17 **NELSON, MS:** Now, page 15, thank you. 2.4 at the top of
18 the screen.

19
20 Ensure your - you follow your agency's delegation
21 register and gain the appropriate approvals prior to
22 engaging a supplier.

23
24 The last sentence of that paragraph in response:

25
26 The appropriate approvals from the accountable
27 authority were provided prior to engaging the OECD.

28
29 So that would be approvals from yourself because you are
30 the accountable authority?---Correct.

31
32 And do you say that those approvals are the email
33 correspondence between yourself and your officers or is it
34 some other type of record?---No. Those records. Correct,
35 counsel.

36
37 **THE COMMISSIONER:** Well, according to this they're in the
38 delegation register?---I'd better make sure. So is - is
39 this 2 point - - -

40
41 **NELSON, MS:** Four at the top?---Sorry. My sincerest
42 apologies, Commissioner. Correct. Yes, Commissioner.

43
44 And that would be the approval to Ms Poole?---Yes. As it
45 turns out, of course, those approvals were, um, ultimately
46 redundant because the approvals are only ultimately for two
47 things. One is to enter into a contract. The second is an
48 exemption from minimum competitive requirements. And I
49 approved that exemption for minimum competitive
50 requirements, and I signed the contract. So the actual

1 delegations of the officers never in fact enlivened itself
2 because I was the one who made those two signatures as the
3 accountable authority. But they - but Ms Poole was a
4 delegated officer under the, um - under the delegations
5 register or in the delegations register, which is in
6 complete compliance with the procurement rules.

7
8 **THE COMMISSIONER:** And the delegations register shows that
9 she was delegated for negotiations - - -?---No.

10
11 - - - for the project and contract?---No. The - there's
12 not a delegation for officers. There is signed, um, and
13 that's not a matter - - -

14
15 I'm just reading what you've written?---Oh, yes. And I - I
16 have to tell you, Commissioner - and let me make this
17 second significant apology. Um, that wording is in fact
18 completely inelegant and my own misunderstanding. Ah, ah,
19 the accountable authority can delegate officers. In this
20 case, the relevant delegations are to enter the contract
21 and to grant an exemption, um, from the minimum competitive
22 requirements. The procurement rules also provide for
23 officers who are assigned, and those assigned officers can
24 on delegation undertake, um, negotiations. And both those
25 officers were Rebecca and to some extent Kyle Heritage.
26 But they did not and aren't, um, ah, noted in the
27 delegations register under the procurement rules.

28
29 So 2.4 is wrong?---Well, there were authorised officers
30 undertaking the negotiations but their proper noun
31 nomenclature to delegated officers is wrong. Oh, sorry,
32 one of them is. That is Rebecca, not, um, Kyle.

33
34 **NELSON, MS:** So I think you're saying to the Commissioner
35 that the approvals that were required for the OECD project
36 were approvals given by you?---Correct.

37
38 Why did you not just say that in the paragraph?---Oh,
39 because I had actually delegated - and it was in the
40 delegations register of course - that the branch manager
41 could do those things. Um, but ultimately when it came
42 time to sign the contract, I decided that contract ought to
43 be signed by me.

44
45 If we could go over page - just scroll through 16 and 17
46 then 18 which sets out the relevant rules.

47
48 **THE ASSOCIATE:** At reading speed?

49
50 **NELSON, MS:** No, thank you. If we go to page 19.

1 **THE COMMISSIONER:** Where do you want Mr Field to read
2 from?

3
4 **NELSON, MS:** Just from 19, thank you. So under the
5 heading "The procured project", is that what you are saying
6 the outputs from the project will be?---Well, as I say,
7 you're entitled to disbelieve me. But once again, that
8 second paragraph captures it exactly what I had in my mind
9 and that's why I wrote it there. It's exactly what I said
10 to the Commissioner before. That's exactly what I have in
11 mind and - and this will obviously be a matter for, um, my
12 counsel. But there is a lot of evidence that, ah, is me
13 talking about exactly these issues.

14
15 In terms of the - the second paragraph under the procured
16 project heading, the project will also have a significant
17 target audience of our major trading partners. The project
18 proposal itself and under the grant agreement makes no
19 provision for this particular target audience, does it? It
20 doesn't particularise that audience?---But as I've said
21 already yesterday, counsel - - -

22
23 Does it particularise - - -?---no.

24
25 - - - that audience?---No. Well, ah, I'll - perhaps I'll
26 have an opportunity to return to it at the appropriate
27 time. For the present purposes, I will say no.

28
29 And as we've discussed before, nor does the proposal
30 reflect any particularisation about Aboriginal
31 Western Australians or refugee communities or in fact any
32 communities at all?---No. And indeed, when I was first
33 signing that contract, I'm not even sure that particular
34 idea had occurred to me.

35
36 If you could go to the next page, page 20. So under the
37 heading "Outputs" it says that the survey will be submitted
38 to the donor, who in turn will distribute it amongst the
39 members of the IOI. It doesn't actually define in this
40 memorandum who the donor is, does it?---Well, the donor is
41 intended to be, um, ah, the Ombudsman of Western Australia.

42
43 If we go to the footnote at 13 at the bottom of this page -
44 thank you, Madam Associate. The Australasian and Pacific
45 Regions funded by Ombudsman of Western Australia and the
46 additional regions funded by a €50,000 contribution by the
47 IOI?---Correct.

48
49 Is there in existence any, ah, cost allocation working of -
50 of the various apportionment between the IOI and the OWA in

1 terms of the payment for the proposal project?---Well,
2 it's - - -
3
4 Where's the working to justify that cost allocation?---
5 Beyond the budget on page - in the document, you mean?
6
7 **THE COMMISSIONER:** You mean page 12?---Yes.
8
9 Well, that doesn't - - -?---You want a - a further
10 breakdown of that?
11
12 **NELSON, MS:** How did you come to - or how did the OECD
13 come to that apportionment given that you say it was
14 actually a geographic reason for it to be - sorry, that's -
15 I can start again. So you've said that the IOI is paying
16 €50,000 because the project was going to be expanded in
17 its geographical - - -?---Yep.
18
19 - - - focus?---Yep.
20
21 How did the OECD, the OWA or the IOI come to a figure of
22 \$50,000 for that - - -?---It - - -
23
24 - - - expanded geographical output?---Yes. It's - it's a -
25 yes. It's a good question. The - the - it came from, ah,
26 my, ah, examination of the OECD, ah, budget and what they
27 had sent to us. Ah, and the view I formed about - based on
28 as I say 17 years' experience of what I thought would -
29 what it would take to do, um, the Australasian Pacific and
30 then expansion from there. I suspect the €50,000, um - in
31 fact, I do recollect it being a slight rounding up or
32 slight rounding down for an even number. It wasn't that
33 acute if you like, but it arrived at that. Um, but, ah, it
34 was based on, ah, my understanding of what I thought the
35 project would undertake.
36
37 **THE COMMISSIONER:** Is that what the world board of IOI
38 passed? It passed a motion for the 50,000?---Yeah.
39
40 Did it pass a motion saying, "This is a contribution for
41 the other regions"?---I can't specifically remember what we
42 put to the world board, but it was very much - it was very
43 much - - -
44
45 Well, I'm not interested in what was put but what was
46 moved. What was the motion?---Oh, I actually - I
47 don't - - -
48
49 We have that - - -?---Yeah, I was going to say - yeah.
50

1 Sort that out in due course. But at the moment I just want
2 to understand your evidence. That is your - you personally
3 worked out additional funders funded by 50,000?---Yeah.
4 They were my calculations. Yep.

5
6 There's no other record of them?---No.

7
8 **NELSON, MS:** And when did you make that calculation?---Ah,
9 that was prior to the IOI world board meeting, and how much
10 prior I'm not quite sure.

11
12 And over the page at 21, thank you, under the heading
13 "Project Development". In addition to meeting the
14 secretary general of the OECD, you provided ongoing
15 briefings to the premier's chief of staff - - -?---Yes.

16
17 - - - during the development of the project?---Yes.

18
19 And I put to you yesterday that the premier's chief of
20 staff has denied any knowledge of this project until
21 October 2023?---Ah, well, he is - the, um - I understand
22 the forthcoming member of parliament is wrong -
23 fundamentally wrong about what he's saying to you. He is
24 incorrect and is not what was discussed with him. I - he -
25 I can understand all the incentives he has to walk away
26 from this. And all of this happened the day the Ben Harvey
27 story ran. Up until then, you would not have had a greater
28 supporter in government for every single thing I was doing
29 than Daniel Pastorelli, and it magically ended the day the
30 Ben Harvey story was on the front page of the newspaper.
31 You'll have to form your own views - the Commissioner will
32 - about the likelihood of that evidence. And the answer is
33 he is wrong.

34
35 Mr Field, could you be mistaken about conversations you had
36 with him in relation to the memorandum of - - -?---
37 Absolutely not.

38
39 - - - understanding with Styria?---With Styria?

40
41 With Styria?---Yes. I had extensive conversations with
42 them about Styria and extensive conversations with him
43 about this and extensive conversations with him about, um,
44 a whole raft of other matters as well. I discussed
45 multiple aspects of my IOI work with him of which this was
46 only one and Styria was another. But there's no confusing
47 the two. Mathias Cormann wasn't involved with Styria. Um,
48 ah, none of these things had any crossover with Styria at
49 all. There were separate line items on my agenda meetings
50 with him. Um, and of course that wasn't the only thing. I

1 was also telling him about every trip I went on, every
2 travel that I took. So they were all delineated out. I
3 certainly wasn't confusing it. He might be confused. I
4 certainly wasn't.

5
6 You recall on the previous occasion I showed you an email
7 that you sent to him in mid-October 2023 giving details
8 about the OECD - - -?---Yes.

9
10 - - - project?---Yes.

11
12 So I'd suggest to you that was the first time you informed
13 him about the project?---This is completely wrong. That
14 was - that was after the story ran in the newspaper and he
15 wanted to know the political messes he had to clean up, and
16 he asked for them and then he sent it to Rita Saffioti to
17 do it. That's what that was.

18
19 But he asked you for details about the project cos he
20 didn't know anything about it at that stage?---
21 Mr Pastorelli knew everything about - as did his
22 predecessors by the way - um, knew everything about, um, my
23 IOI work. Um, um, they knew about, ah, ah, the fact that I
24 was, um, ah - my original, ah, application to be president.
25 Every aspect of everything that I did, every trip that I
26 took, um, every project that I was discussing - yes, about
27 Styria of course, but everything about the OECD. Um, ah,
28 anything that I thought was of benefit. And - and,
29 counsel, just to finish that - - -

30
31 **THE COMMISSIONER:** Well, I think I have the evidence
32 because one of - I have the evidence. You have strongly
33 denied that Mr Pastorelli knew nothing about it. You've
34 told us that you briefed him extensively. I understand
35 that evidence?---And - and - and, Commissioner - and
36 I - - -

37
38 No. I understand the evidence?---I was going to say
39 I - I'm sorry. I'm sorry, Commissioner.

40
41 I understand - - -?---I withdraw.

42
43 - - - the evidence. You're passionate about it and I have
44 noted that. But I understand that you completely deny what
45 was put to you?---Thank you, Commissioner.

46
47 And the purpose of counsel putting things is for your
48 response?---Thank you, Commissioner. Thank you.

49

1 **NELSON, MS:** I note the time, Commissioner. I'm nearly
2 finished with this particular document.

3

4 **THE COMMISSIONER:** Well, let's try and finish it and then
5 we'll have a break.

6

7 **NELSON, MS:** Over the page at page 22 under the project
8 funding heading you put in the details about the
9 streamlined budget process, and we've had extensive
10 evidence from you about that?---Yes.

11

12 You say the Ombudsman secured a grant of €50,000 from the
13 world board of the IOI?---Yes.

14

15 I'd suggest to you that at the time that the world board
16 agreed to that particular amount of money being applied to
17 this project, they had been informed that they were
18 commissioning the project from the OECD?---Ah, no. Well,
19 ah, I was the president and chair of the board and I
20 discussed this extensively with members. Um, I think that
21 the world board thought they were very much a project
22 partner. Very much a partner of this. Um, and perhaps
23 they - perhaps the way they might have thought about it
24 most correctly was it was a tripartite project. I mean, I
25 - I don't have a photo recollection of that meeting but I
26 have a pretty strong recollection. And the discussion, um,
27 in Vienna was that this was a tripartite, um, process.
28 There was the IOI, there was the OECD, and there was the
29 OWA. And indeed, we had made it abundantly clear that the
30 OWA was the principal and majority funder of this project,
31 and that was abundantly clear in that submission we made.

32

33 If I could have 0359^ at page 5, thank you.

34

35 0359^

36

37 **THE ASSOCIATE:** Is that page 9?

38

39 **NELSON, MS:** Page 5. If we go - if you keep scrolling
40 down, thank you. It's page - that's the wrong document.

41

42 **THE COMMISSIONER:** Might be better to have the break and
43 you can find the document over the break.

44

45 **NELSON, MS:** Okay. Thank you, Commissioner.

46

47 **THE COMMISSIONER:** We'll break for one hour.

48

49 (WITNESS WITHDREW)

50

THE COMMISSIONER: Sorry I am a couple of minutes late, please be seated.

CHRISTOPHER JAMES FIELD RECALLED AT 02.03 PM:

NELSON, MS: Thank you, Commissioner. Could I have 0158^ back up on the screen, and we're at page 22.

0158^

NELSON, MS: And particularly looking at the paragraph in the middle of the screen:

The Ombudsman secured a grant of €50,000 from the world board of the IOI.

And I was suggesting to you, Mr Field, that that was a misrepresentation of what had occurred, in that the world board of the IOI had not given a grant to the OWA to enter into the project with the OECD, but the world board thought that they were approving that the IOI enter into the project with the OECD. Do you accept that?---Um, the actual sentence - well, no. The Ombudsman secured a grant of €50,000 from the world board of the IOI. Um, ah, it was exactly what did happen, and that was €50,000 contribution to that project. So, that sentence, I don't have a photo recollection of writing it at the time, but that sentence was conveying, as I read it now - conveying what I thought was an accurate representation of what had been done, that the IOI world board was contributing €50,000 to the project.

Do you accept at the time the world board approved that amount of money, the world board were under the impression that they were entering into the agreement with the OECD as the project partner with them?---Um, what I recollect at the time, um, was that I'd indicated to the world board, um, that there would be a project with the OECD, ah, of which they would contribute funding, of which we would contribute funding. We were the principal partner. I have a recollection that that was couched in terms of the IOI, um, being - entering into a project with the OECD, um, which was from my recollection, in part writing to audience. Obviously in no way trying to mislead, but trying to basically say, 'This is the' - I'm writing - I'm now speaking to the audience of the IOI, what are you contributing to it, what's your role? Um, but from my recollection of that memo, I think it probably should have

1 been better drafted to make it even clearer - or to make it
2 clearer, that along with the IOI, ah, ah, that the OWA was
3 - it was clear that we were the principal funder, but we
4 were also the, from a contractual point of view, the
5 project partner. Of course, the project - that still
6 hadn't been finished at that stage.
7
8 Well, I'll take you to the actual document, 0151^.
9
10 0151^
11
12 **NELSON, MS:** In the middle of the screen, you have sent an
13 email to Mr Heritage, who has actually drafted the
14 documents for the world board of the IOI?---Yes.
15
16 And you have said:
17
18 Dear Kyle, exceptionally fine first go of this, virtually
19 no changes, well done. Dear Becky, accept tracks and send
20 to Michael.
21
22 Who is the IOI secretary?---Correct.
23
24 And then if we go to page 6 to see what you have
25 considered. So, this is the memorandum to the IOI board of
26 directors basically asking them to approve the project.
27 So, the second paragraph refers to the OECD prepared a
28 proposal for a cooperative research project between the IOI
29 and the OECD, can you see that there?---Correct.
30
31 I'll just give you a minute to read what's on the screen?
32 ---Yes, correct.
33
34 At the bottom of the screen, the IOI board are being told
35 that the 2018 research project will be expanded with a
36 particular focus on African, Asian, Australian and Pacific
37 Ombudsman's regions?---Correct.
38
39 And then over to the next page, you've nominated that the
40 Western Australia Ombudsman office will provide €77,000 as
41 well as significant in-kind resources to the project?
42 ---Yes.
43
44 And you proposed to the board the IOI contribute the
45 remaining €50,000?---Yes.
46
47 And then you recommend that the board commission the OECD
48 to undertake the corroborative research project that is
49 then named. Can you see at the bottom of the screen?
50 ---Correct.

1
2 So, you're proposing to the board that the IOI is the
3 project partner with the OECD and this document, aren't
4 you, Mr Field?---Um, so counsel, obviously just as I
5 mentioned, it contains a raft of those matters I just
6 discussed. Um, that we were the predominant funder.
7
8 Does it suggest to the board that they approved that the
9 board is the project partner with the OECD?---No, I - I - I
10 want to concede to you, um, that at that particular point,
11 particularly at that iteration of the development of the
12 project, because it was developing from '21 right up until
13 now, it's still developing. If it was to continue as a
14 project, it continues to develop, um, in terms of its
15 scope. Um, that at that stage, the IOI being a, ah, a
16 signatory partner to the, ah, to the contract, I concede
17 that should have been - I simply haven't settled that.
18 It's my fault, not Mr Heritage's, I haven't settled that
19 correctly, I should have made it clearer, um, that I was
20 writing to audience, but it still should have been clearer
21 about OWA's role on just the majority funding, there should
22 have been something further about that in the document.
23 So, I think that's correct.
24
25 So, it doesn't say in the memorandum that the OWA will be
26 the sole signatory partner with the OECD?---Oh, I'm
27 agreeing with you.
28
29 And it doesn't say that the IOI's contribution of €50,000
30 is to extend the project from the Asia region to other
31 regions of the world, does it?---Oh, that certainly was in
32 my mind when that document - - -
33
34 **THE COMMISSIONER:** No, no, you're not asked what was in
35 your mind?---Sorry.
36
37 You were asked what the document says?---No it doesn't, no
38 it doesn't.
39
40 **NELSON, MS:** And attached to the memorandum that we're
41 looking at, the IOI were given a copy of the proposal
42 itself at page 15, thank you. I think it's page 15. So,
43 they're given a copy of the proposal, which, if we just
44 scroll down to the last paragraph on that page, bottom, the
45 OECD and the International Ombudsman Institute's mandates?
46 ---Yes.
47
48 No reference to the Ombudsman of Western Australia?
49 ---Correct.

1 And if we go over to the next page, the outputs page, and
2 then they are also given a copy of the proposed budget at
3 page 17?---Correct.

4
5 Which is titled, 'International Ombudsman Institute'?
6 ---Correct.

7
8 What the IOI board approved was that the IOI enter into
9 this agreement with the OECD as the designated project
10 partner, but that the OWA provide some funding towards it?
11 ---Well, that's a slightly incorrect way of saying some
12 funding, by far the majority funding, um, but, ah, so I
13 just think that's clinically incorrect. Um, we were by far
14 the majority funder, but, um, I agree with the Commissioner
15 entirely that, ah, not everything that I had evolved in my
16 thinking that was captured in the procurement memo in
17 October was known to me at this time. But I absolutely
18 should have done a better job of settling that for what was
19 in my mind at that time that wasn't fully captured in the
20 memo, that's correct. But I concede that without
21 hesitation.

22
23 That can be taken down, thank you. I've finished with
24 0158^, I just want to take you to the letter that was with
25 that actual memorandum. So, that's 0157^.

26
27 0157^

28
29 **NELSON, MS:** And we've looked at this letter in various
30 drafts earlier this morning, if we just scroll slowly
31 through to page 2. Perhaps the quicker way to do it is to
32 go to the last page. Can you see this is the signed
33 version of the letter?---Correct.

34
35 I'll go back to the first page. And that's the beginning
36 of the letter that you settled, Mr Field?---Correct.

37
38 And then we go over to the second page, you've - well,
39 Layla, on the basis of your instructions, has told the
40 Treasurer that you entered into the agreement on three
41 separate bases that we've gone through before, so I won't
42 go through that evidence again. I just want to go to page
43 3 quickly. You've put in - well, Layla's put in there the
44 streamlined budget process content from the actual
45 submission from February, and has said the reason why this
46 funding request was made through the 2023-24 SBP was so
47 that specific approval for the agreement from the ERC would
48 be obtained?---Correct.

49

1 And I just want to clearly put to you that the approval for
2 an SBP from the ERC would be just an appropriation of funds
3 without any consideration of the merit of a project
4 referred to in the terms that you have done in the SBP
5 that's on the page?---I just unambiguously reject that.
6 That's certainly what the Treasurer is saying.

7
8 Well, in any event, on the basis we accept your evidence
9 that the ERC were approving the merits of a major OECD
10 project in the Asian region, would you agree that that is
11 all the information they were given in which to make the
12 assessment?---Ah, they were given the information that
13 would have been provided up until including the SBP process
14 considerations, that would have been iterations of emails
15 between my staff and Treasury officials. Ah - - -

16
17 In terms of settling the SBP?---Correct, correct. So,
18 there would have been a series of - there was a series of
19 emails, um, between my office and Treasury officials about
20 the SBP. Um, and then what they would have beyond the SBP
21 - well, I don't know, I can't answer that question.

22
23 Well, it's nothing that you or your office provided?---No,
24 no, that's - that's correct, beyond - beyond - yes, very
25 good, counsel. I - I don't know what they had, but I know
26 what we had, and we had provided, um, the SBP and the
27 emails that preceded the SBP.

28
29 Now, after sending that letter to the Treasurer on
30 13 November, did the Treasurer then respond on
31 20 November?---I don't have a photo recollection of the
32 date, but there certainly was another letter, correct.

33
34 And do you recall that in that letter, the Treasurer didn't
35 accept your explanation that you had given in your letter
36 of 13 November?---Ah, didn't accept it, did you say?

37
38 Well, perhaps I'll show you the letter. 0159^.

39
40 0159^

41
42 ?---I think the answer is yes, but I'll - - -

43
44 So, the Treasurer said first - the third paragraph down, in
45 effect that you did not have authority to enter into the
46 agreement under the Financial Management Act?---Correct.

47
48 And then second, that there was nothing in the
49 Parliamentary Commissioner Act that authorised you to enter

1 into the agreement?---Correct. Yes, correct, that's what
2 she's saying.
3
4 And finally that the SBP submission dated 1 February 2023
5 was in very general terms and was not a - in effect a
6 sufficient basis upon which government to give - - -?---
7 Correct.
8
9 - - - you approval to enter into the agreement?---Correct.
10
11 And then over the page on page 2 the treasurer's asked you
12 to engage with the OECD in relation to looking at
13 termination of the agreement?---Correct.
14
15 And then to write back to her after you've got a response?--
16 --Correct.
17
18 And did you engage with the OECD on that basis?---Ah, no.
19 I thought the treasurer's letter was wrong in - on every
20 count.
21
22 And I understand that you wrote again to the treasurer nine
23 days later on 29 November?---Correct.
24
25 And that's 0399. Madam Associate, I think we've got hard
26 copies of this document. If that could be handed out,
27 thank you.
28
29 0399^
30
31 **THE COMMISSIONER:** Sorry, what's the number again?
32
33 **NELSON, MS:** It's 0399. Thank you, Commissioner.
34
35 I'll just give you a minute to familiarise yourself with
36 that document. It's eight pages long?---I - I certainly
37 don't have a photo recollection of every word but I'm
38 broadly familiar with the letter.
39
40 Did you draft the letter, Mr Field?---I drafted it with
41 assistance from counsel.
42
43 Did you get assistance from Ms Poole?---I don't recollect
44 getting assistance from Ms Poole.
45
46 And much of what is in this we have already covered. I
47 just want to ask you about a couple of new things. Page 6,
48 thank you, of the letter. If we could have page 8 of the
49 document, page 6 of the letter. Thank you. I'm interested
50 in the paragraph that starts:

1
2 On the contrary, the application in the terms it was
3 presented to ERC was advised to me as being in acceptable
4 terms by treasury. I note here the record of a
5 conversation between my deputy ombudsman and Mr Matt Stubbs
6 of treasury which was relayed by an email to me by my
7 deputy ombudsman on 13 January 2023.

8
9 And then you've quoted some of that and underlined that the
10 wording is fine with them and - so what was the point of
11 putting that paragraph into the letter to the treasurer?---
12 Ah, the point was to talk about those antecedent
13 discussions as it had occurred prior to the actual
14 submission of the SBP. So the emails that had been
15 exchanged between my office and treasury in development of
16 the SBP.

17
18 Can I have 0402?

19
20 0402^

21
22 So your deputy at the time was Ms White?---Correct.

23
24 I'll just give you a minute to refresh your memory about
25 that email exchange?---Correct.

26
27 And if we could go to page 4. So the early iteration of
28 the streamline budget process from your deputy had nothing
29 to do with the OECD project it would appear, Mr Field?---I
30 would - counsel, I'd - the only reason I don't want to
31 agree with that is I - I - I checked this when I settled
32 this letter, and it was my recollection that that
33 particular referencing was a referencing, um, to, ah, that.
34 If that's not the case, that was an inadvertence to which I
35 would apologise to the Commission. But I thought I had
36 actually checked that at the time. It certainly was not
37 deliberate. I'd have to go back and check my own records
38 about that.

39
40 In any event, would you - would you agree that the treasury
41 officials - so that's the Department of Treasury - are
42 reviewing the certification document for a - for its form
43 and its content whether it's within the parameters of the
44 SBP for that particular financial year?---Yes.

45
46 And they're not assessing the merits of the substance of
47 what's in the description?---Hard for me to say what's in
48 their mind, um, but, ah, my understanding is they're
49 assessing it as to whether it's, ah, something suitable,
50 um, to, ah, be placed within an - I think very similar to

1 what you said. Is it something that otherwise, um, would
2 be, ah, in the context of an ERC? For example, does it
3 involve, um, ah - would it involve every current liability?
4 If it does, then it's not necessarily within an ERC. So
5 correct. Um, and it would be my understanding this - the
6 members of the ERC themselves - the treasury and the
7 ministers who must go to the substantive matters, um, on
8 advice from treasury.

9
10 And - - -?---But where - where treasury starts and stops on
11 that, um, it's not been my understanding it's exclusively
12 on those matters. I think it would also go to the
13 substance of matters as well.

14
15 And in fact, in this particular financial year, I think
16 that salaries or FTE as it's called was not going to be an
17 acceptable basis of a submission?---Correct. That was a
18 change - my recollection is that was a change they made in
19 that physical year, ah, that you couldn't incur salary, um,
20 ah, ah, liabilities.

21
22 Thank you. If we could go back to 0399 which is the letter
23 to the treasurer that you drafted dated 29 November. And
24 page 9 I think it is.

25
26 0399^

27
28 In the middle of the page there's a paragraph that starts:

29
30 I did brief the then honorary premier and treasurer's chief
31 of staff about the work with the OECD commencing in 2022.

32
33 Who was that chief of staff that you're referring to?---Ah,
34 that was - well, wasn't then premier - but it was
35 Daniel Pastorelli - is Daniel Pastorelli.

36
37 So when exactly in 2022 did you commence briefing him about
38 work with the OECD?---Um, when I met with him. During
39 meetings with him I would - that would be one of the
40 multitude of things I would brief him about.

41
42 And when you say work with the OECD, do you mean the actual
43 OECD project - - -?---Correct.

44
45 - - - that we've come to refer to or just the - - -?---
46 Correct.

47
48 - - - fact that you were meeting with the OECD?---Oh, no.
49 Um, ah, the - the - what I was discussing with
50 Daniel Pastorelli was the same as what I was discussing

1 with the others. But specifically to your question, um, it
2 was, um, ah, what the OECD project was. Um, it - I was
3 excited about the project and I was trying to brief people
4 about it. I was trying to say, "Hey, isn't this a benefit
5 that's coming from me being the Ombudsman and the president
6 at the same time?"

7
8 Well, Mr Field, we've seen many documents that would
9 suggest that the project in the form that you signed it
10 didn't exist until well into the beginning of 2023. The
11 project proposal didn't exist until at least 9 January 2023
12 from your point of view. That was the first occasion you
13 received - - -?---No. The - - -

14
15 - - - the proposal?--- - - - project idea I had dated back
16 to whenever it was - 2020, '21 - when I first became aware
17 that it wasn't just when I actually downloaded the report.
18 I knew about it because we'd been a contributor to the
19 report, and that certainly was post, um, meeting with
20 Mathias Cormann. And that was absolutely an ongoing
21 briefing matter from the time I met Mathias onwards - or
22 the secretary general of the OECD onwards which each of the
23 most senior decision makers in government. That included,
24 um, the premier's chief of staff. And it wasn't just
25 briefing. It was exuberance cos I thought it was a - it
26 wasn't a matter of ego. I just thought it was a fantastic
27 outcome coming from the fact that I was president - that
28 there was just this added bonus for the state of
29 Western Australia.

30
31 The project proposal came from the OECD to you, not the
32 other way round?---No. That's - that's just not correct at
33 all. I met with the secretary general and said I would
34 like to do a project. His chief of staff then gave me her
35 card as I walked out the room and we organised a time for
36 the OECD to meet with us so we could discuss projects that
37 could be done. The - there would have - - -

38
39 My question was the project proposal - - -?---Yep.

40
41 - - - that ended up being a part of the agreement that you
42 signed did not exist until January 2023 from your point of
43 view?---Well, no. I don't agree.

44
45 Okay.

46
47 **THE COMMISSIONER:** Well, the documents will speak.

48
49 **NELSON, MS:** Thank you, that can be taken down. And then
50 the treasurer subsequently replied to you again on

1 29 January this year?---Ah, yes. Oh, sorry. I don't
2 remember the date, but I certainly remember another
3 response.

4
5 0400. Page 4, thank you.

6
7 0400^

8
9 We can see it's signed by the treasurer. And if we could
10 just scroll back up to the beginning of the letter,
11 thank you. And in this communication the treasurer has
12 said she still does not accept your explanation and has at
13 the bottom requested that you urgently engage with the OECD
14 to ask whether the agreement can be terminated and to
15 inform her in writing, correct? That's what - - -?---
16 Correct.

17
18 - - - it says? Did you contact the OECD after receiving
19 this letter dated 29 January?---Ah, well, my one syllable
20 answer is no.

21
22 Thank you, that can be taken down. Now, I want to change
23 tack entirely and - - -

24
25 **THE COMMISSIONER:** Just - - -

26
27 **NELSON, MS:** - - - talk about - - -

28
29 **THE COMMISSIONER:** - - - give you a moment to reconnect.
30 I should say just for Mr Field's benefit that at about
31 three we'll take a five-minute break.

32
33 **NELSON, MS:** Thank you, Commissioner.

34
35 Now, I just want to talk to you about travel generally,
36 which you have been examined about previously. I want to
37 put to you a proposition that your role as parliamentary
38 commissioner of administrative investigations is limited by
39 the functions as outlined in the Parliamentary
40 Commissioner's Act and any other legislation within
41 Western Australia that appoints you a function by virtue of
42 you holding that office - - -?---I - - -

43
44 - - - such as the Telecommunications Interception Act, for
45 example?---It wouldn't just be churlish of me to disagree.
46 I'd be fundamentally wrong to disagree. I agree with you.

47
48 And following from that, I'd suggest to you that that
49 limits your functions - you performing your functions to
50 the borders of Western Australia unless it's reasonably

1 necessary for you to go outside the state of
2 Western Australia. But otherwise, you're expected to
3 perform those functions under those various pieces of
4 legislation within the geographical boundaries of
5 Western Australia or within our jurisdiction?---The only
6 answer to that I think is yes.

7
8 Now, previously you've given evidence about your travel,
9 particularly in 2022 and 2023 and have said that was for
10 the purpose of performing your role as president of the
11 IOI. So I want to suggest to you that using
12 West Australian funds or the funds of your office here to
13 travel internationally to perform the role as the president
14 of the IOI is outside your proper purpose because it's not
15 - you can't perform your functions outside the state?---Ah,
16 I was on a rolling very strong agreement with you, counsel,
17 but on that basis, no. I have to disagree. I don't think
18 that's correct.

19
20 And I gather from earlier evidence - but correct me if I'm
21 wrong - that you believe you can still perform your
22 functions as parliamentary commissioner of administrative
23 investigations outside Western Australia, or have you
24 changed your mind about that?---No. I - I've not changed
25 my mind. I think that's a matter of statutory
26 interpretation. But I do know that different people have
27 different views, and I respect that entirely. And I could
28 be wrong about my good faith statutory interpretation about
29 the absent from the state provisions.

30
31 Well, if you are wrong about it, do you accept that the OWA
32 should not be paying for your international travel as
33 president of the IOI?---Oh, no. I think it's absolutely
34 proper, um, that contributions, um, ah - when I was elected
35 president, there was, ah, contributions that would be made
36 by the Western Australian taxpayer, contributions made by
37 the IOI and contributions made by members that I'd be
38 visiting. I thought that was the three proper sources of
39 funding for the role as president.

40
41 You didn't seek a particular appropriation of funds from
42 the West Australian Government in relation to your travel
43 as president of the IOI though?---I wouldn't have sought it
44 from government. I would have sought it from Parliament.
45 And if I had sought it from - the only reason I didn't seek
46 it from Parliament is because, um, ah, ah, the - the travel
47 budget was one that was otherwise, um, affordable in our -
48 in the appropriation that we'd otherwise been provided by
49 Parliament for that fiscal year.

1
2 You're given an appropriation by Parliament to perform your
3 functions under your - the legislation in
4 Western Australia?---Correct.
5
6 Not to perform functions for a non-Parliamentary
7 Commissioner Act purpose overseas?---I don't accept that at
8 all.
9
10 Do you accept that the role of president of the IOI is not
11 a function conferred under the Parliamentary Commissioner's
12 Act?---Ah, no. I believe to be Ombudsman and to be
13 president are roles that can be concurrently held as a
14 function under the Act.
15
16 **THE COMMISSIONER:** What function?---Ah, well, it's either
17 a function that's incidental to other purposes under
18 the Act, potentially. Or alternatively, um, ah, it's a
19 function which, ah - yes, you're right, Commissioner.
20 Not - - -
21
22 Well, I haven't said anything. I'm just - - -?---Oh, okay.
23
24 Counsel asked you?---Sorry, Commissioner.
25
26 I'm just asking what function. You said you believe it to
27 be a function under the Act. Simple question. What
28 function?---Well, I think it's, ah, properly implied into
29 the legislation that an ombudsman can undertake, ah, a
30 function as the president of the international ombudsman
31 body, ah, and that be utterly lawful.
32
33 **THE COMMISSIONER:** So when I am considering and looking, I
34 should be looking for an implied function under your Act?
35 Is that what you've just told me?---(No audible answer)
36
37 I mean, what function can you point to, if it's implied
38 function, it's implied function, that permits the
39 expenditure of state money on IOI business?---Well,
40 Commissioner, there are 200 plus ombudsman around the
41 world, and I don't know that any one of those - - -
42
43 I'm not interested, with great respect, Mr Field, in 200.
44 Just in you, and just in an answer to counsel's question?--
45 -Well, there's going to be - there's going to be thousands
46 of corrupt public servants in the world because, on that
47 basis - - -
48
49 No, no?--- - - - (indistinct) have those functions.
50

1 Just - with great respect, you're not answering the
2 question. You should - after all, you've spent lots of
3 state money. You should be able to point to me to the
4 function that allows that?---Being ombudsman allows you to
5 be president or it doesn't. I accept if it doesn't.
6
7 It might allow you to be president. That's not the issue?--
8 --Yeah.
9
10 The issue is does it allow you to spend state money?---I
11 believe it does.
12
13 Yes, I know you do, but - and I'm going to hand back to
14 counsel because I didn't want to do this - - -?---I can see
15 your - - -
16
17 - - - but - - -?--- - - - frustration, Commissioner.
18 I - - -
19
20 I - - -?--- - - - apologise.
21
22 I haven't heard from you yet other than an implied
23 function, what function it is that allows you to spend
24 state money?---And - and so the, ah, honest answer to that,
25 um, Commissioner - - -
26
27 Well, I hope every answer's been honest?---Well, sorry.
28 That's - it's a Bob Hawke turn of phrase to try to say
29 something while I'm thinking. I'm - apologise to you very
30 sincerely. Um, what I - what I, um, should say is I don't
31 see under the Act that there's, ah, something that
32 appropriates to me that specific idea of a travel any more
33 than any other function that I have. I - I'm the
34 ombudsman. I have an appropriation of moneys to undertake
35 my role as ombudsman. As ombudsman, I can be president,
36 and that appropriation can be in part used to be president
37 of the IOI.
38
39 That is merely restating what you have said over and over.
40 It still doesn't answer the question what function.
41 Statutory functions - you agree with counsel at the
42 beginning about statutory functions. Which one?---It - it
43 - it - it's the - it's the statutory function to be the
44 ombudsman.
45
46 Very well.
47
48 Sorry, counsel.
49

1 **JOHNSTON, MS:** Would you agree that performing the role as
2 president conflicts with your role as ombudsman in this
3 state in that it - it takes you out of Western Australia
4 for a good period of the year while you're travelling?---
5 Ah, in - well, I would absolutely agree with that if I
6 wasn't working 80 hours a week. I would agree with you
7 entirely.

8
9 It - working on OWA work whilst you are overseas requires -
10 requires you to accept that your role has no geographical
11 constraint, that you can - you can perform functions
12 outside of state of Western Australia?---Yes, you can.

13
14 Okay?---Ah, you can't if there's no Internet or other
15 facilities to do so, but otherwise, you can.

16
17 **THE COMMISSIONER:** Or if the statute forbids it, because
18 the statute says, absent from the state, the powers devolve
19 onto the deputy?---Agreed, but, ah, in absolute good faith
20 and long before I was the president of the IOI, I took the
21 view that that could not conceivably be what the parliament
22 meant by that provision, because that would have, for
23 example, meant I was - it was unlawful for me to go to
24 South Australia for an - an annual ombudsman meeting. I
25 would have been unlawful to be in South Australia. It
26 couldn't possibly have been what they meant, is my view.

27
28 **JOHNSTON, MS:** I want to take you to particular aspects of
29 the travel that you have undertaken. If I could have
30 document 0444?

31
32 0444^

33
34 **JOHNSTON, MS:** And this is an aide-memoire compiled by the
35 Commission. It's two pages long - well three pages,
36 actually. You could look at 2022, so it's recorded there
37 that you travelled to New York from May the 4th to the
38 16th - - -?---Correct.

39
40 - - - at a total cost to the state of \$19,991?---Correct.

41
42 So the air fares were \$6,000-odd - sorry, the accommodation
43 was 6,000-odd, air fares of nearly 11,000, meals of 2,000
44 and gifts that you took with you of \$700?---Ah, I - - -

45
46 Can you (indistinct)?---I don't have a photo recollection
47 of this, but I'm - I'm accepting that.

48

1 Was it your usual practice to take gifts from Western
2 Australia with you when you went overseas to perform IOI
3 presidency work?---Correct.

4
5 Where did those gifts - where were they normally
6 purchased?---Ah, almost exclusively, um, purchased from
7 either aspects of Kings Park or the Perth Mint.

8
9 And they were purchased using OWA funds?---Correct.

10
11 And who were they gifts for, generally?---Ah, senior
12 dignitaries. Um, some may have been from - when they were
13 more regularly, ah, ombudsman, but it's just as regularly
14 for, ah, presidents, prime ministers, ambassadors, consul
15 generals of other nations.

16
17 And you received gifts in return?---Correct.

18
19 Did you receive gifts normally on a trip around about the
20 same cost as what you had given? So would you expect to
21 receive gifts around about \$700 or - - -?---Don't
22 recollect, um, things. I think we would tend to receive
23 less, um, than what we get back, so that was a - ah, that
24 is a higher amount because there was a number of senior
25 meetings in that particular period, um, but, um - ah, yeah,
26 certainly, we would receive gifts. In relation to the
27 parity of those, um, I don't have a photo recollection.
28 I'd have to check all of my records.

29
30 And Ms Poole accompanied you, and her - the net cost of her
31 travel was nearly \$21,000. There has been no business case
32 located for her travel. Why would that be?---Ah, sorry, is
33 this for New York?

34
35 Yes?---There certainly should be, and there would be
36 absolutely no reason why there shouldn't be.

37
38 And then she also accompanied you to Vienna, Styria and
39 Paris, June the 2nd to the 17th, which is the same period
40 in time in which you met Mathias Cormann?---Ah, correct.

41
42 There's no business case for her travel either?---Very
43 surprised about that. I would have to go back and look at
44 my records. There should be absolutely no reason why there
45 wouldn't be, um, and I will look at my records to - to - to
46 see why you haven't been able to define one.

47
48 **THE COMMISSIONER:** Well, it's always hard to prove a
49 negative, so to - so to speak, so probably the question
50 should be, we have been unable to locate - - -?---Yes.

1
2 - - - a business case?---And - and - and I completely
3 accept, um - well, the mere fact you've been unable to
4 locate it, I partly blame myself, because it should have
5 been readily available. Um, but I will look to find that
6 business case. I - there were always business cases.
7 There should have always been business cases prepared.
8
9 **JOHNSTON, MS:** And if we look at the Vienna, Austria
10 Styria travel, which is the second line, June the 2nd to
11 the 17th, on the last occasion that you came in for
12 examination, Mr Field, I showed you that business case and
13 asked you questions as to why it had been signed by
14 yourself after the travel had been taken. Do you recall
15 that?---Ah, yes, I think I do.
16
17 I'll show you that document. 0238.
18
19 0238^
20
21 **JOHNSTON, MS:** Sorry, I think it's the wrong number.
22 0233.
23
24 0233^
25
26 **JOHNSTON, MS:** So we go - track through to page 2. At the
27 bottom of the screen, there's a paragraph that says that
28 you will be accompanied by your chief of staff?---Yes.
29
30 And then over to the top of page 3, 2 June is the - the
31 date of the travel to 17 June?---Yes.
32
33 And then if we go to the last page, can see it's signed by
34 yourself on 21 July 2022?---Correct.
35
36 And by Ms White on 12 August 2022?---Correct.
37
38 So that's - both of you signed it after you had taken the
39 travel?---Yes.
40
41 I think the - the Commissioner asked you on the last
42 occasion what the purpose of the business case was, given
43 that it wasn't actually approving travel prior to you
44 undertaking it?---(No audible answer)
45
46 You're nodding your head?---Ah, I don't recollect that, but
47 I - I'm absolutely prepared to accept that's what the
48 Commissioner said.
49

1 And particularly since we go back to page 2, that the
2 document at the bottom of the screen talks in the future
3 tense about you being accompanied by your chief of
4 staff - - -?---Yes.
5
6 - - - and you're approving it post travel. So what is the
7 purpose of the business case, Mr Field?---Ah, the purpose
8 of the business case, um, is, ah, to - well, it's - be - in
9 - effectively, in the shortest possible sentence, it's to,
10 ah, demonstrate, if it - if it can be demonstrated, value
11 for money for the Western Australian tax payer undertaking
12 travel.
13
14 It documents the fact that you have spent the money?---No.
15 There's two - there's two forms we have. One is a business
16 case, which is a - can it be demonstrated? Is it
17 demonstrated that there is value for money for the tax
18 payer from undertaking this travel, and then there's a
19 second form, which is effectively a reconciliation form of,
20 um, the amounts that were spent and any differentials
21 between the amount and the business case.
22
23 Well, a document like this which pretends to approve
24 something, in fact, that has actually occurred, is a sham.
25 Is it not?---A - a - a sham in the sense you're saying I've
26 - I'm not quite following.
27
28 A sham in the sense that you are purporting to approve
29 travel that has already occurred?---Well, the - well, what
30 I do want to do - I don't want to answer that question now,
31 only for one reason, with your indulgence, Commissioner, I
32 would like to check my own records about that, um - ah, as
33 to why that signature - that date is different. That is -
34 and it is, you'll - I - I hope, from the various other ones
35 you've seen, is unusual that there is a post dated business
36 case. I would like to check my own records before I
37 respond to that, if - if the Commissioner will indulge me,
38 I would - I would do that overnight.
39
40 **THE COMMISSIONER:** You can do that overnight and tell us
41 in the morning?---Thank you.
42
43 **JOHNSTON, MS:** Thank you. That can be taken down. I want
44 to show you a gift benefit and hospitality provided form,
45 0414.
46
47 0414^
48
49 **JOHNSTON, MS:** This form - if I could just scroll up? See
50 it's unsigned, but it records that a gift was given to

1 Werner Amon, the secretary general of the IOI - - -?---
2 Correct.
3
4 - - - and ombudsman of the Republic of Austria on 8 June
5 2022?---Correct.
6
7 And the gift was a gumtree sculpture to the value of
8 \$430 - - -?---Correct.
9
10 - - - which would have been paid for by the OWA - - -?---
11 Correct.
12
13 - - - and bought by your executive assistant on your
14 behalf?---Ah, yes, correct - ah, I'm not sure who bought
15 it, but it would have been someone from the office,
16 correct.
17
18 And under the box that says:
19
20 Relationship of gift giver and receiver - International
21 Ombudsman Institute colleagues -
22
23 - is the relationship?---Correct.
24
25 Do you recall filling out this form?---Ah, no. The form
26 would have been filled out by someone in my office, but I
27 certainly would have seen the form and signed the form.
28
29 And you would have provided the details that went into the
30 form?---Ah, the level of the detail into the form, yes,
31 correct.
32
33 See underneath the nature of the relationship description,
34 it says:
35
36 Can the receiver make decisions in relation to the offerer
37 or giver.
38
39 ?---Correct.
40
41 And:
42
43 No -
44
45 - is - - -?---Correct.
46
47 Been nominated?---Correct.
48
49 Does - do you have any personal relationship with Mr Amon?-
50 --Ah, I know Mr Amon as first the - well, then, um - ah, I

1 didn't know Mr Amon particularly well. Um, he was, at that
2 point, the secretary general of the International Ombudsman
3 Institute. I've come to know him much better since that
4 time, but that point, I knew he was the secretary general
5 of the IOI - - -

6
7 And - - -?--- - - - and, in fact, I - in fact, I think the
8 first time I'd met him in person, um, was not long before
9 that.

10
11 And in June 2022, you were the president of the IOI?---
12 Correct. Correct.

13
14 So could Mr Amon have made decisions that affected you in
15 his role as secretary general of the IOI?---Ah, no.

16
17 He couldn't?---(No audible answer)

18
19 Okay. I'll - underneath that, it says:

20
21 Previous - - -

22
23 ?---Secretary general reports to the board, not the other
24 way around.

25
26 But you have a relationship with him in which you would
27 communicate about matters that need to go before the board,
28 for example, or other matters that the IOI board would need
29 to consider, such as the OCD[sic] project - I mean, OECD
30 project?---Oh, well, I see what you're suggesting. Um,
31 the, um - so, first of all, that gift wasn't a gift given
32 to Mr Amon. It was a gift given to the Volksanwaltschaft
33 that was given to the Austrian Ombudsman Board, gifted on
34 the occasion of the 45th anniversary of the Austrian Board,
35 and it was placed in the offices of the Austrian Ombudsman,
36 of which Mr Werner Amon is one ombudsman.

37
38 **THE COMMISSIONER:** Who - who gave the gift?---Oh, I did.

39
40 No, but in what hat?---Um, as the ombudsman and president
41 of the International Ombudsman Institute.

42
43 **JOHNSTON, MS:** And previously, you had given Mr Amon a -
44 another gift, a lunch and two dinners in March 2022?---Yes.
45 He visited Western Australia for the - or he visited me for
46 the first time post the COVID, ah, restrictions.

47
48 If we could - - -

49

1 **THE COMMISSIONER:** When you're finished with that form,
2 we'll have - - -

3
4 **JOHNSTON, MS:** I have.

5
6 **THE COMMISSIONER:** - - - the break.

7
8 **JOHNSTON, MS:** Thank you. Thank you, Commissioner. Yes.

9
10 **THE COMMISSIONER:** Then we'll have a five-minute break.

11
12 (THE WITNESS WITHDREW)

13
14 (Short adjournment)

15
16 **THE COMMISSIONER:** Please be seated.

17
18 **NELSON, MS:** And, Mr Field, in December 2022 when you went
19 to the Ukraine, did you also sign your business case during
20 travel, and it was endorsed, ah, by Belinda West after you
21 returned from the Ukraine?---Ah - - -

22
23 Can we have 0236, thank you.

24
25 0236^

26
27 Do you recall that, Mr Field?---Yes. Oh, sorry. I - I
28 don't. I'll also check, ah, that. As I say, the, ah, um,
29 standard practice would have been to sign beforehand. Um,
30 even if I had signed after, does it make it a - a sham?
31 Well, of course not. It's a record of the business case
32 for official air travel. And all of those assessments were
33 made prior to the travel, ah, that we reduced to writing
34 mostly as I recollect and signed before I left. But the
35 idea that it makes it a sham that it was reduced to writing
36 and signed during or immediately after the trip is simply
37 something I don't accept.

38
39 Had you made all the arrangements for travel before you
40 signed the business case if it was signed before you
41 travelled?---No. The - the process was the same on every
42 occasion. Um, and it certainly wasn't the case on this
43 occasion that I would make an assessment whether I was
44 going to undertake the travel at all. That was a value for
45 money assessment. Um, could I appear remotely? Um, were
46 there other more efficient mechanisms for the taxpayer, um,
47 ah, for the invitation that I'd received? Um, I'd then
48 look at the most cost-effective way if there was, um, to
49 make that travel. Ultimately, that would be reduced to
50 writing. I think on some occasions it was signed before

1 the travel. Perhaps on many occasions. I'd have to check.
2 Um, sometimes even during the travel and then sometimes
3 after the travel. And as I say, I think you indicated to
4 me earlier that was a sham. Um, quite the contrary. I put
5 extensive thought processes into the value for money for
6 travel with the West Australian taxpayer, um - - -

7
8 **THE COMMISSIONER:** But you're still approving your own
9 travel?---Oh, sorry, Commissioner. No question about it.
10 And - and - and, Commissioner - and even further than that.
11 Ah, no single suggestion simply because there's another
12 signatory on that, um, which was simply to see if I'd made
13 any mistakes in the way I filled it out - was anyone
14 responsible for that but me.

15
16 **NELSON, MS:** The document - if you were to pick it up and
17 read it, it looks like it's a business case for you
18 approving your own travel in advance of making any travel?--
19 --It - it - if it comes across that way, it certainly
20 wasn't intended to. Um, I can say this, um, that I
21 received - this was an example. I received an invitation
22 to attend the Ukraine to speak at that conference. I made
23 an assessment about whether I should attend at all. That
24 was a multilayered assessment based on security risk
25 issues, based on the cost issues. A whole raft of issues
26 went into that consideration of which there's an inordinate
27 email chain about that - email chains about that. Um, ah,
28 ultimately, I made the decision that it was beneficial to
29 the Western Australian taxpayer that I attended that
30 conference in my capacity both as the West Australian
31 Ombudsman and the President of the International Ombudsman
32 Institute. I completed a business case accordingly to
33 record to - to make sure that that was all, um, ah, placed
34 in writing. Um, I mean, the idea that it was a sham is
35 about as far from what it could possibly be described as I
36 would have thought. And this would far exceed the sort of
37 businesses for travel you would see in other agencies.

38
39 If we could - - -

40
41 **THE COMMISSIONER:** Yes, but other agencies have someone
42 else approving?---Well, not all. Not all.

43
44 Well, anybody following the premier's circular does?---
45 Well, that's - sorry, Commissioner. I profoundly reject
46 that. I follow the premier's circular because I chose to
47 do so.

48
49 No, you don't. You don't follow it because if you did the
50 premier would be approving your travel?---No, Commissioner.

1 The premier's circular was utterly silent on whether, um,
2 the Ombudsman - - -

3

4 I know your view about it and I don't want to get
5 into - - -?---You're saying it as a fact.

6

7 - - - wasting time?---It's not a fact.

8

9 **NELSON, MS:** Perhaps if we could go - - -?---That would be
10 prejudgment of that matter that's in dispute.

11

12 **THE COMMISSIONER:** I'm not prejudging anything. I have
13 listened with care. But I have - - -?---Well, I haven't
14 even - - -

15

16 - - - difficulty in - - -?--- - - - made my submissions.

17

18 - - - accepting that a person who signs their own business
19 case is following any procedure that's laid down in the
20 premier's circular because the premier's circular requires
21 approval by a minister. Now, I understand why you say that
22 doesn't apply to you, but you are not following the
23 premier's circular. You're following aspects of it?---The
24 aspects that are applicable to the Ombudsman. Correct. In
25 my view.

26

27 **NELSON, MS:** If we could go to page 2 of this document,
28 thank you. Down the bottom of page 2 you can see the dates
29 of travel. So from 3 December to 14 December. Then if we
30 could go to page 4, thank you. And down the bottom of
31 page 4 the second-last sentence references the fact that
32 the Ombudsman engages with the Department of Foreign
33 Affairs and Trade?---Correct.

34

35 In respect of the Ukraine, you had what could be described
36 as a robust exchange of views with a high ranking DFAT
37 officer in Canberra about whether you should go to Ukraine
38 in December of 2022?---Not in the slightest did I have such
39 an exchange. Ah, they had a robust exchange with me and I
40 had a highly diplomatic response in return.

41

42 Well, in effect, the email exchange was that they said you
43 should not go due to security concerns?---Yes. That
44 officer who I think is now our Ambassador to Greece did,
45 um, ah, have that exchange with me. That is completely
46 correct.

47

48 And my question is, is it entirely transparent that you
49 have just said that you engaged with the Department of
50 Foreign Affairs without saying that they advised you

1 against the travel and you decided to go anyway?---I think
2 it is entirely transparent, um, because it is what it is
3 that I engaged with the Department of Foreign Affairs about
4 that travel. Of course, when you say that's the engagement
5 with the Department of Foreign Affairs and Trade, that's
6 one component part of the engagement with the Department of
7 Foreign Affairs and Trade. Um, I was receiving advice to
8 the utter contrary from other, ah, members of the
9 Department of Foreign Affairs and Trade.

10

11 You didn't think it would be pertinent to put in the
12 business case around your approval to travel to Ukraine
13 that there had been differing opinions about whether you
14 should go by officers at DFAT?---Look, I don't think it's
15 an unreasonable point, counsel, whether that could have
16 potentially been put in there. I have to say my view was
17 that, um, I had done that engagement. I certainly wasn't -
18 there certainly wasn't any lack of transparency about it
19 because I was - there was email exchange. I was emailing a
20 raft of other, um, ah, ah, people external to my agency
21 about it. I certainly wasn't trying to hide it. There
22 were lots and lots of email exchanges about it. Um, and as
23 I say, not just within my office but outside of my office.
24 Um, but no. I - I did think that that was - what is
25 effectively that template word of text, um, captured what
26 I'd done, which was that I engaged with, um - with DFAT.
27 Um, and as I say - - -

28

29 So it's - - -?--- - - - with multiple members.

30

31 It's a template text that's been settled by you?---Yes,
32 correct.

33

34 To be applied in every situation in which you travel
35 internationally?---Correct. And I have to say of all the
36 times that I have travelled, um, the only time where such
37 an issue has been raised on this occasion - and, counsel,
38 it's a point - - -

39

40 Well - - -?---It's a point I hear. I - I - I might have
41 added something about that.

42

43 It was a warzone at the time, Mr Field, and still is?---Ah,
44 indeed it - indeed. Tragically, it absolutely is a
45 warzone.

46

47 And you were proposing to go back in December of 2023?---
48 Correct.

49

1 But that didn't eventuate because the - certain members of
2 the IOI World Board thought that you should not go due to
3 the cost of it?---Ah, correct. There was a view that
4 because of the upcoming, um, ah, conference in the Hague,
5 um, that further travel, ah, wasn't necessarily, um -
6 further costing - further expenditure on travel ought to
7 be, um, constrained and, ah, retained for, ah,
8 supplementing impecunious ombudsmen for their travel to the
9 Hague.

10

11 So the IOI itself has quite a rigorous process for
12 approving expenditure on travel by the president or - or
13 the vice president?---Ah, no. There's only travel for the
14 president. And the, um, ah, ah, ah, general rule of thumb
15 has been established that there is up to €10,000 available
16 per year, ah, which can be approved by the executive
17 committee of the IOI World Board for a president's travel.

18

19 So there are some controls in place - - -?---Oh, yes.

20

21 - - - in that - - -?---Correct.

22

23 - - - the expenditure is capped per year - - -?---Correct.

24

25 - - - and you need to nominate the jurisdiction - - -?---
26 Correct.

27

28 - - - of your destination - - -?---Correct.

29

30 - - - and you need to get the approval of the board?---
31 Correct. Ah, the executive committee of the board.
32 Correct.

33

34 Sorry. The executive of the board?---Oh, no. Don't
35 apologise, but yep.

36

37 So to do that, do you need to do a business case?---No.
38 There's not a requirement for a business case beyond
39 actually just detailing what the actual trip is basically.

40

41 In the form of a memorandum similar to what you did for the
42 OECD project - - -?---No. Less - - -

43

44 - - - approval?--- - - - than that. It would be along the
45 lines of an email generally.

46

47 An email. If we could go to page 13 of this document,
48 thank you, which is - attaches the corporate credit card
49 for one of the executive assistants in the OWA,
50 Ms Jamieson. And down the bottom of the page highlighted

1 there are two airfares, one for yourself and one for
2 Ms Poole to go - - -?---Correct.
3
4 - - - to the Ukraine?---Correct.
5
6 So these were bought on 22 November 2022?---Correct.
7
8 Well before the business case was settled?---But - they're
9 certainly purchased before the business case is settled,
10 not before the decision is made about whether travel ought
11 to be undertaken and what is the lowest cost provider, um,
12 which is done by examining all of the relevant providers.
13 Um, but the earlier you purchase the fares the better
14 because they become more and more and more expensive closer
15 to the date.
16
17 Well, wouldn't it be better to actually do the business
18 case and then buy the airfares?---Well, the business case
19 is being done though. What is - there is - there is an
20 invitation that's received. As I say, that's all part of
21 the business case. The business case is initiated - the
22 process is initiated by an invitation that's received.
23 Then thought is given to, um, should someone be travelling
24 at all. If so, whom? Um, ah, what is the least cost way
25 of doing it? Um, and then one of the very first decisions
26 that's made is, um, to - once you're past that hurdle, um,
27 is to make sure that, ah, if you get past that hurdle is to
28 make sure that airfares and accommodation are booked
29 because it's dramatically cheaper to do that earlier rather
30 than later. Ah, and of course, that can always be refunded
31 if something goes awry in the meantime.
32
33 Of course. But I'd suggest to you that the proper process
34 would be to actually put - do the business case for the
35 approval of the travel before you actually put any travel
36 arrangements in place. But I gather you have a different
37 view?---The reduction to writing of the business case is
38 done. That's not to suggest that a business case isn't
39 being done through that process. It absolutely is. I
40 mean, you - those things couldn't have been booked if those
41 matters hadn't been gone through in the office.
42
43 Well, by those matters you mean if you hadn't sent an email
44 to your executive assistant saying, "Book tickets for me
45 and Becky to Ukraine"?---But I don't receive an invitation
46 to go to Ukraine and then send an email saying, "Book
47 tickets". I receive the invitation and go through a whole
48 raft of processes internally in, um - - -
49

1 On some occasions, do you nominate where you will travel
2 prior to receiving the invitation from the destination
3 country?---Um, I can only think of two occasions that
4 haven't been through an invitation. One was to meet with
5 the secretary general of the IOI and I think a second was
6 to visit the UK Parliamentary Ombudsman. I think they're
7 the two occasions of all of the trips that haven't been
8 preceded by an invitation.

9
10 The IOI board or executive committee doesn't dictate where
11 you travel, do they? They leave it up to you to decide?---
12 Oh, there may be views - first of all, within the board
13 there may be board directors who have a view, um, about
14 places that they would, um, like me to travel. The board
15 itself might have to. But I think you're broadly correct
16 in saying - you're certainly correct in saying the board
17 wouldn't be saying, "You have to go here. You don't have
18 to go here". Correct.

19
20 And on this occasion, Ms Poole didn't end up going to the
21 Ukraine?---Correct.

22
23 And in fact, the Commission is not being able to - has not
24 been able to locate a business case for her?---Well, she -
25 she didn't go.

26
27 Her travel though was cancelled very soon before the
28 departure date from Perth though, wasn't it?---She made a
29 personal decision that she didn't want to attend, one that
30 I respected entirely and respect, ah, to this day. Um, um,
31 and therefore, no business case eventuated because there
32 was no, um, travel that occurred.

33
34 Now, if we could go to Pakistan, which was a trip you took
35 in May 2023. The Commission has been able to locate a
36 business case on that occasion for Ms Poole. I have 0242.

37
38 0242^

39
40 Do you have any recollection as to why in 2023 Ms Poole,
41 um, started doing business cases that we've been able to
42 locate?---A recollection? Oh, I think what - I think at
43 one point there was a - ah, business cases were combined
44 with the one document. And I think at one point as I
45 recollect it, um, we separated them into two documents. We
46 felt that was the most appropriate. It also may have been
47 - I actually don't have a particular recollection of it I
48 have to say.

49

1 Do you recall the auditor general's office asking your
2 office why approval was given by yourself for your own
3 international travel - - -?---Ah - - -
4
5 - - - at any point in the last couple of years?---There was
6 - it wasn't asked of me personally but, um, I recollect
7 being briefed. I - it might have only been once but it
8 referred to two separate times, um, in relation to the
9 auditor general asking about approval, ah, of myself -
10 well, me approving the travel. Correct.
11
12 And were you briefed about any suggestion from the OAG that
13 the practice be changed so that you got approval from an
14 external party?---No. I've never been giving that
15 briefing. In fact, the briefing I got was quite the
16 contrary.
17
18 The briefing you got was that you didn't need to change the
19 practice at all, is that what you're saying?---The briefing
20 that I - well, here's my recollection. Plus I also, um,
21 have a recollection of an email, um, that I have seen about
22 this, um, where the staff from the auditor general's office
23 or a staff member had asked about it, um, and that was a
24 couple of years ago. Um, and there was some discussions
25 held at the time with my staff and that officer. Um, and
26 then I think in the most recent financial year - so not
27 this financial year obviously - well, it hasn't occurred -
28 but the previous financial year that same question was
29 asked. I think it was asked as I recollect because - I was
30 told because the auditor general herself had asked the
31 question. Um, and there was some discussion as to whether
32 I was a parliamentary secretary. And if I was a
33 parliamentary secretary, therefore I should be having my
34 travel approved. And there was a discussion obviously that
35 "No, he's not a parliamentary secretary". And they said,
36 "Oh, yes, that's right. Now we remember the conversation
37 from a couple of years ago. Yes. He is, um, not mentioned
38 in the premier's circular and, um, ah - and it doesn't
39 apply to him in relation to signing his travel. He can
40 sign his own travel".
41
42 When you went to Bahrain in October of 2023, you were on
43 annual leave?---Correct.
44
45 And your accommodation and airfares were paid by Bahrain?--
46 -Kingdom of Bahrain. Correct.
47
48 And Ms Poole did not accompany you?---Ah, no.
49

1 The Commission has a record that you took gifts paid for by
2 the OWA with you on that occasion?---I have a recollection
3 of that.

4

5 If you're on annual leave and therefore not on official OWA
6 business, why was the - the office paying for the gifts
7 that you took to Bahrain?---Ah, I was on annual leave
8 because of, ah, the fact that I was, um - ah - - -

9

10 **THE COMMISSIONER:** The question wasn't why you were on
11 annual leave. It seems to be a fact - - -?---All right.

12

13 - - - that you were?---Yep.

14

15 So counsel could ask the question again.

16

17 **JOHNSTON, MS:** If you were on annual leave when you
18 travelled to Bahrain, and therefore you weren't doing
19 official business, why did the office pay for the gifts
20 that you took with you?---So I don't agree that I wasn't on
21 official business. I was acting as the ombudsman, and the
22 president of the International Ombudsman Institute, and in
23 accordance with, um - ah - ah, Australian and Western
24 Australian, ah, polices. Um, I was presenting, um - ah -
25 ah, gifts, ah, to, ah, international dignitaries.

26

27 So you were on annual leave from being the parliamentary
28 commissioner for administrative investigations?---Mm.

29

30 So you weren't officially performing those duties while you
31 were over there. You were on leave?---Ah, no. I was of
32 the view I was, um, acting as both the ombudsman and the
33 president of the International Ombudsman Institute, or put
34 a different way, for the front page of the West tomorrow, I
35 was working on annual leave.

36

37 **THE COMMISSIONER:** I can understand on annual leave
38 performing function's as president of the IOI. Having a
39 little trouble understanding why you're performing
40 functions as the WA ombudsman?---I just see them as one in
41 the same thing though, Commissioner, that it - it goes to
42 the point, Commissioner, that you made before, and I
43 answered so inelegantly, not deliberately misleadingly,
44 what functions do I have to be the ombudsman - to be the
45 president. The answer is none. I have a function to be
46 the ombudsman, and I see it as, um - ah, coincidental, um,
47 and a corollary to being the ombudsman that I can be the
48 president.

49

1 **JOHNSTON, MS:** And whilst you were in Bahrain on annual
2 leave, did you instruct staff back here at the OWA to
3 perform activities on behalf of the IOI?---Ah, this is one
4 of these answers where I - I don't have a recollection, but
5 I might well have. If you can remind me, I - I would be
6 help - I would be - - -
7
8 Well - - -?--- - - - able - - -
9
10 - - - 0266.
11
12 ^0266
13
14 **THE WITNESS:** I - I - I'm - it's absolutely possible.
15 Yes. That's definitely something I would have sent.
16
17 **JOHNSTON, MS:** So you're asking Mr Heritage to prioritise
18 doing something on behalf of the IOI?---Well, it's about a
19 three-minute job, but, yes. I - I'd written the stories.
20 I'm just asking them to be posted on Linked In. I did - he
21 - I'm not asking him to write the stories. I've written
22 all those stories, and I'm just saying, "Could you post
23 them?"
24
25 I - I think on the last occasion, I showed you a series of
26 emails in which Ms Italiano-Schmidt and Mr Heritage had
27 drafted Linked In stories - - -?---Correct.
28
29 - - - and you said that you would be redrafting them
30 ordinarily?---Correct. So those are ones I would have
31 written myself from scratch, is my recollection. Oh, in
32 fact, I'm - I'm - I've misled you entirely. I haven't
33 asked for those to be put into Linked In. I have written
34 the story, posted it myself on Linked In, and then I'd sent
35 it to Mr Heritage for him to place - to send - so you have
36 to change it from the third person to the first person, um
37 - um - ah, sorry, no, from the first person to the third
38 person, and place it on the IOI Friday newsletter. It's a
39 two or three-minute job.
40
41 But not something you could have done yourself then?---Ah,
42 I - yes, I - I - I - I - I could have done it myself. Um,
43 I wrote the Linked In stories myself. I posted those. Um,
44 I actually wasn't sure who was the best person at the IOI
45 secretary to actually send that to. There was - I think
46 there was a particular person we were sending those
47 newsletter stories to, so I wasn't actually sure of that,
48 but I could have. There - there was at least one contact I
49 knew, and I could have sent it myself. It seemed like a
50 very, very minor (indistinct) on - on his time.

1
2 When you went to Italy, which I think was in 2023 - - -?---
3 Yes. Correct.
4
5 - - - that was for IOI purposes?---Ah, yes. Correct.
6
7 Can you recall what you actually did while you were there?
8 I'm just trying to find the business case?---Ah, I can. I
9 - do - would you like - I'll stop talking.
10
11 And was it your usual practice when you were away to use
12 chauffeur driven cars to get between appointments?---Ah, it
13 would depend on the location, but normally, the rely - the
14 - it would always be about a cost issue as well, but it was
15 generally around the reliability and the certainty that
16 they'd be there on time and get you where - do - you needed
17 to be on time. That was the - that was the value of them,
18 um, as compared to using, ah - - -
19
20 So what - - -?--- - - - other services.
21
22 - - - the cost issue that you're referring to?---Oh, you -
23 you wouldn't use a chauffeur car which would be, you know,
24 a Rolls-Royce. You would use a - a basic car, but what you
25 did know is you were booking it for a service. I won't
26 name the companies, but they were just standard sort of,
27 ah, companies where you had an absolute confidence that
28 they would arrive on time, be waiting for you, um, and that
29 was important.
30
31 Well, why would you need to have a car, if you're in Rome,
32 for example, to get to a - an appointment? Why did you
33 actually need a car? Could you not walk?---It would be the
34 timing between events. There might not have been time to
35 walk from one event to another, for example.
36
37 All right. I'll show you Ms Sharp's corporate credit card,
38 0475.
39
40 0475^
41
42 **JOHNSTON, MS:** And if we could just scroll up so we can
43 see from 15 September 2023? See there's reference to -
44 numerous references to Blacklane?---Correct.
45
46 And are they the - the chauffeur that you used when you
47 were in Italy?---Correct. Well, so there'll be transfers
48 to and from airports, um, and there'll also be - and that's
49 at either end, and then there'll be, potentially, transfers
50 intra, um, Rome, um, between meetings. I mean, we

1 certainly walked between meetings. I walked between
2 meetings countless times when I've been on international
3 travel. I - I couldn't even begin to count how many times,
4 um, but, um if we knew there was a certain timing between
5 one event and another, and there wasn't time to walk there,
6 we would organise a car to do so.

7

8 So you can see on 15 September, there's - was Blacklane,
9 used \$218, and then 17 September:

10

11 395 VIP charter Perth.

12

13 Is that for a - a transfer to the airport from your home to
14 the airport in Perth or the other - - -?---Yes - - -

15

16 - - - way?--- - - - it wouldn't just be one, and I don't
17 know what that 600 actually contains. That's not just one
18 transfer.

19

20 Both you and Ms Poole get transfers from the airport at
21 Perth to home?---Ah, she would usually go from her house,
22 pick me up, then go to - cos I was on the way, um, to the
23 airport, ah, so it would usually only be one car.

24

25 Then there are two entries for Blacklane on
26 20 September - - -?---Yes.

27

28 - - - at \$217 and then 309, and then over the page, two
29 more for the same date, \$330 and \$217 respectively?---I - I
30 can't comment upon these out of context, um - um - ah,
31 other than to make that general statement, but I'd have to
32 know which - what they're appending to as to - to reply to
33 it more specifically, but - - -

34

35 Could I have 0583, thank you?

36

37 0583^

38

39 **THE WITNESS:** I - this is helpful.

40

41 **JOHNSTON, MS:** So there are three separate chauffeur
42 vehicles on the Wednesday, and two on the Thursday?---
43 Correct, and they simply would have been worked out on the
44 basis of, um, what is the timing, um, between events from
45 one event, ah, to another was the general rule, um, that
46 was, ah, applied, um, and what other meetings we had in
47 place.

48

49 Why was it necessary for the vehicle to wait for you whilst
50 you were in the meeting? For example, I'm looking at:

1
2 Wednesday, 2.30 pm Australian Embassy to the Holy See.
3
4 ?---Oh, well, it was my - I - one thing I'd have to check,
5 ah, my recollection is with those there's a certain time,
6 ah, that you book, and it can be just as economical for
7 them to actually meet, wait (indistinct) the specific time
8 and then take you back to where you were going as opposed
9 to drop you off, go away, come back.
10
11 **THE COMMISSIONER:** This was all IOI business?---Ah, yeah,
12 well, you know, my answer to that, um, Commissioner,
13 is - - -
14
15 I know that - - -?---Yeah.
16
17 - - - your answer is they're the two?---Yeah, so - but the
18 - the - so the answer is it was the two.
19
20 **JOHNSTON, MS:** The information that the Commission has is
21 that the meeting with the ambassador at the Holy See was a
22 - a four-minute car ride from where you started the trip,
23 or a 13-minute walk. Would that be correct?---I'd have to
24 check, um, the records.
25
26 Well, on the basis of the records the Commission has, I can
27 show you 0651.
28
29 0651^
30
31 **JOHNSTON, MS:** So this is a Commission record compiled
32 from various business records that we have obtained from
33 the OWA?---Yes.
34
35 You can see the - the purpose is to transport you and
36 Ms Poole to a meeting with the ambassador of the Holy See,
37 and the - the track that the car has taken is there on the
38 map, and in the - down the side, on the right - sorry, the
39 left side of the map, you can see it's a 13-minute walk or
40 a four-minute car ride in light traffic?---Well, all I can
41 say, um, counsel, is something very, very simple. Um - ah,
42 not one part of using - you're calling them limousines and
43 chauffeur cars - not one part of using a car was ever done
44 with any form of personal pretentiousness in any
45 circumstance. It was done particularly in places where -
46 I'd never been to Rome before. Had no clue where I was,
47 um, and I knew - I had a meeting with the ambassador. I
48 knew I was in a hotel and I had to get there, and I wanted
49 something that I could rely upon in relation to it was
50 going to be at the hotel, um, and then I would be, ah,

1 taken to the embassy, so that's the reason it was used. In
2 fact, to make the point even further, there - we had a car
3 booked, um, by the conference organiser, ah, not the
4 wonderful ombudsman of (indistinct) fault that was meant to
5 pick us up on the last day just didn't even turn up, so, um
6 - ah, it was always vital to me, um, that I knew there
7 would be a car downstairs, um, that knew where it was going
8 and would be - get me to where we're going when I had no
9 clue where I was geographically - - -

10

11 You had chief of staff with you though, Mr Field, didn't
12 you?---Yes.

13

14 She could have worked out where you had to go?---I - I -
15 I'm not sure that either of us had - had - would - would
16 describe ourselves as being geographic - geographically
17 particularly - - -

18

19 **THE COMMISSIONER:** Well, you don't need to be these days.
20 You just have to have a phone?---Well, that's - in - and -
21 and - and can I say, there were absolutely occasions, um -
22 I can remember this, for example, vividly in, um - in, ah -
23 in, ah, Manchester where, ah, we were walking around the
24 streets with the Google, ah, looking for things and got
25 hopelessly lost doing it. Um - ah, and spent half an hour
26 walking around Manchester for something that should have
27 taken two minutes to get to, so it was not done through any
28 sense of anything other than will there be a car there when
29 I get downstairs? Yes. Will it know where it's going?
30 Yes. Is that one less thing I have to worry about? Yes.

31

32 **JOHNSTON, MS:** It comes at - at a bit of a cost though to
33 the WA tax payer, doesn't it, Mr Field?---And - and I'm
34 mindful - and I'm absolutely mindful of that. The cost of
35 living in this state is significant. Um, I'm absolutely
36 mindful of the costs of this travel, including those travel
37 costs. I am not cavalier about them. I do not take them
38 for granted at all. Um, I'm extraordinarily privileged to
39 undertake the role I undertake, and I absolutely did not do
40 that, um, through any sense of being, ah, pretentious or
41 wanting to be in a car like that. Not one iota. I did it
42 because, um, I wanted to have that comfort that when I
43 walked out of my room, there was a car there waiting, that
44 I wasn't going to be late for meetings with people like
45 presidents, prime ministers, ambassadors. That was
46 fundamental to me that I would not be late. Um, you never
47 know when it's going to rain, for example. That's another
48 issue. Um, all those sorts of things. And - well, it's a
49 serious issue, um, counsel. If you're going to meet with,
50 you know, the president of a country, you don't want to

1 turn up soaking wet, so these are all things that we would
2 always take into account, and I thought the cost outweighed
3 - the benefit outweighed the cost, but I'm not cavalier
4 about the cost at all.

5
6 All right. I'll show you another example from the
7 following day, 0652.

8
9 0652^

10
11 **JOHNSTON, MS:** So this was an event at the ambassador's
12 residence?---Correct.

13
14 So a dinner or some kind of event like that? Cocktail
15 event?---Ah, no. I was - that's an event at the ambassador
16 to the Holy See, and I was, along with the outstanding
17 Julie Inman Grant, Australia's Cyber Safety Commissioner,
18 um - ah, who's the president of the cyber safety body, um -
19 ah, also without any reference to that in her act, um - um,
20 and she was there in Rome, um - ah, with, um - ah - ah,
21 speaking at the ambassador to eh Holy See's event, um, with
22 a range of people from the Vatican, um, and I was one of
23 the two guest speakers, and I can assure you, I did not
24 want to be late to that event, and I wanted to be there -
25 and be there on time.

26
27 So the distance was .8 of a kilometre, or you could have
28 walked in 10 minutes according to this - this map. Would
29 that be correct?---Yes, but that's - I - I also, as I
30 recollect, by the way, on that particular day, was coming
31 straight from the conference as well, so there was a real
32 timing issue, as I recollect it, that we were very, very
33 concerned about the timing of (indistinct) getting to that
34 event, so you're showing that in isolation, but I'd been
35 working that entire day, um, heavily engaged in conference
36 and post conference activities, and we were concerned about
37 actually getting from that event to that event on time. I
38 actually remember that one, and I remember actually
39 approving that one because I was very concerned about the
40 timing of actually getting there. In fact, we were really
41 concerned we wouldn't make it on time, and when that was
42 originally booked, we also had a meeting with the, um - ah,
43 the - well, I - I'm - I sincerely apologise to all
44 Catholics, the CEO of the Vatican City - he's not called
45 the CEO. Um, and that was on the other side of Rome, and I
46 was very concerned about timing.

47
48 Just on cyber security, did you take your OWA laptop with
49 you when you went overseas?---Yes, I did.

1 What precautions did you take in relation to the
2 information that was on that laptop when - - -?---I
3 took - - -
4
5 - - - you were working on OWA matters overseas?---Thank
6 you, counsel. It's an important matter, and I took the
7 precautions that are appropriate to take under the relevant
8 Western Australian policies, which are - are known to me.
9
10 **THE COMMISSIONER:** And they are?---Oh, most of them are
11 pretty obvious, Commissioner, in the sense that - oh, no,
12 no. Sorry, I don't mean that in some sort of arrogant way.
13 I mean, ah, they go through the sort of things you would
14 expect, which is, you know, don't leave your laptop
15 unattended. Don't use USB sticks you don't - shouldn't be
16 using, et cetera, et cetera, et cetera, et cetera. There's
17 a whole raft of them, ah, and - and they were particularly
18 brought to my attention for the trip to Uzbekistan, and I
19 didn't go, but that was because that was a known area of
20 foreign state influence. I won't say which foreign state,
21 but foreign state influence. Um, and there was particular
22 cautions around Uzbekistan. Um, that foreign - that IT
23 security was not an in briefing from ambassadors because I
24 had an in briefing for all of these, so I had an in
25 briefing from the ambassador to Italy. And that IT and
26 briefing was virtually never done. Um, it was done for
27 Uzbekistan, which was a serious - considered serious there.
28 But I knew about them anyway.
29
30 But did Ms Sharp mostly deal with your travel plans -
31 making them or changing them in doing all the incidental
32 matters that - - -?---Yes. The exceptional Ms Sharp, um,
33 ah, um, was an enormous assistance to me throughout 2023 in
34 doing that work.
35
36 Let me just show you a couple of emails. 0259
37
38 0259^
39
40 So in this email from September last year you appear to be
41 asking Ms Sharp to book Poland and Ukraine. You're nodding
42 your head?---Correct. I'm so sorry. Correct.
43
44 "For Becky and I when the dates are announced"?---Correct.
45
46 So was that the travel that the IOI said that they would
47 not - - -?---Correct.
48
49 - - - pay any money towards?---Correct.

1
2 And you ended up not going?---Correct.
3
4 Then the hotel that the Manchester event has nominated, is
5 that in 2024 some time?---Correct. The Manchester
6 memorandum.
7
8 And you've asked her also to book the train and to book a
9 hotel in London?---Correct.
10
11 Um, you've asked her to book flights for Manchester and for
12 Poland and Ukraine?---Correct.
13
14 And also for the Hague. Is that for May?---Correct.
15
16 2024?---Correct.
17
18 And I see you've got a reference to:
19
20 Becky, Ella and I for the Hague.
21
22 ?---Correct.
23
24 So Ms Italiano-Schmidt was going to go with you and
25 Ms Poole?---For the 2024 Quadrennial World Conference.
26
27 And she had also accompanied you and Ms Poole to the 2023
28 World Board Meeting?---Correct.
29
30 Did you approve her travel to do that?---I think that
31 probably was approved by her line manager which would have
32 been, um, Rebecca. But I - I'm - I can't be certain about
33 that.
34
35 So what was the purpose of Ella attending at the Hague in
36 2024?---Oh, experience for, um, a - a member of the
37 Ombudsman's, ah, office. Ah, ah, ah, the Hague World
38 Conference is - it's quadrennial, so it's held every four
39 years. Um, it is the general assembly and world conference
40 of the IOI, um, and I was looking to ensure that, um, I
41 gave an opportunity to, um, ah, another staff member in the
42 office. Um - we have a very profound commitment to women
43 in leadership, and I thought as an outstanding young
44 officer in the office who had a very bright future - ah,
45 and she does - um, would benefit from the experience of
46 attending that conference.
47
48 So the OWA was going to pay for Ella to attend the
49 conference in 2024?---The OWA pays for staff to attend

1 conferences throughout the year. Um, um, ah, and that was
2 one of those examples.

3
4 And the purpose was for her to get experience?---Yeah.
5 Continuing professional development.

6
7 And that's the extent of the purpose?---Oh, it also would
8 have been to assist - to assist in relation to - in the
9 same way that when she attended the World Board Meeting,
10 um, to provide assistance as well in relation to, um, um,
11 the - ah, ah, ah - my chairing and the - all of the - the
12 raft of the additional meetings that we had as part of the
13 2023 board meeting. Um, but for the world conference my
14 principal thinking was around CPD.

15
16 Meaning continual - continuing education for - - -?---Oh,
17 I'm so sorry.

18
19 - - - Ms Italiano-Schmidt?---I - I hate acronyms. Ongoing
20 professional development. Um, ongoing engagement for our
21 younger staff with stakeholders, um, as we do with a - with
22 a number of staff.

23
24 Was there any other reason why you were asking her to come
25 to the Hague in 2024?---Um, well, beyond those two, no.

26
27 Could I have 0447, thank you.

28
29 0447^

30
31 Was another reason so that she could accompany you to a
32 weekend with your dear friend Minister Amon in the north of
33 Styria?---To - to go to the Hague?

34
35 Correct?---No, absolutely no connection whatsoever. The -
36 the first that even such a suggestion would have - well,
37 possibly even occurred to me - and it still doesn't occur
38 to me - is when you just said it to me now.

39
40 Well, it occurred to Ms Italiano-Schmidt because she says -
41 she replies:

42
43 Regarding travelling to the north of Styria, thank you. It
44 would be a privilege.

45
46 ?---What's that got to do with the Hague?

47
48 I beg your pardon?---Well, what does that have to do with
49 the Hague, her response?

1
2 You can't see the connection between the two emails,
3 Mr Field?---(No audible answer).
4
5 Can you not see the connection between the two emails?---
6 Well, no. I absolutely cannot see the connection between
7 the two emails. Um, to say that a person who was in the
8 office of the Ombudsman of President - I mean, she's now
9 not there but at that time was in the Ombudsman of
10 President who'd attended the IOI World Board Meeting, um,
11 who I'd identified with Rebecca as someone who I thought
12 was a going forward staff member, um, in our organisation,
13 um, and a potential future woman in leadership - and it was
14 an excellent opportunity for her to attend the Hague. It
15 was completely unrelated to this. Just had absolutely no
16 relationship whatsoever.
17
18 I see. By this stage in May 2023, were you good friends
19 with Minister Amon?---Um, we were professional friends.
20 Correct.
21
22 Well, did you describe him as a dear friend on occasion?---
23 Ah, yes. I - there are many, many, many - - -
24
25 **THE COMMISSIONER:** Well, I think the answer is yes?---Yes.
26 Of - of many dear friends I have - - -
27
28 **NELSON, MS:** And were you going - - -?--- - - - in the
29 international community.
30
31 - - - to reciprocate with the hospitality he'd shown you by
32 bringing him back to Perth with an entourage in, um, mid -
33 or to late 2023?---Wasn't reciprocation of an entourage.
34 This was ah, um, ah, ah, the signing of a - what's
35 misogynistically referred to as a sister state, now
36 properly referred to as a memorandum of understanding
37 between, um, the, um, extraordinary state of
38 Western Australia and the great state of Styria. That's
39 what that was. Wasn't about reciprocating hospitalities.
40 It was about a relationship between two major subnational
41 regions.
42
43 Could I have 0448, please?
44
45 0448^
46
47 Just scroll down, thank you. We can see your email in its
48 entirety of 16 May at 12.42 am. Thank you. Is this a list
49 of actions for when potentially Minister Amon would visit
50 Perth?---Correct.

1
2 And did you instruct one of your officers at the OWA to
3 book hotel rooms and other activities - cultural
4 activities?---I - we didn't get to the stage of booking as
5 I recollect it, but it was to examine all of those
6 possibilities.
7
8 So when was this trip to occur?---Ah, it was when, ah - the
9 date I don't remember. It was the date that
10 Daniel Pastorelli gave me before the signing of the
11 agreement in Parliament between, um, the Premier of
12 Western Australia, the then excellent Premier Mark McGowan
13 and, um, ah - and the Governor Drexler, the governor of,
14 um, ah - of the state of Styria. Um, so that was all
15 around the date that I was given by Daniel Pastorelli.
16
17 So there's potentially bookings for rooms at the
18 Ritz Carlton and a booking at Wildflower Restaurant for
19 yourself, Becky, Ella, and other people presumably coming
20 with Minister Amon?---Yes. He was bringing
21 vice-chancellors, heads of chambers of commerce and
22 industry, journalists, and a range of others as part of the
23 signing ceremony.
24
25 And this is the same minister that you had given gifts to
26 that we saw in May 2022?---No. I gave a gift to the
27 Austrian Ombudsman Board of which there are three members
28 of which Minister Amon is one for their 45th anniversary,
29 and also the ombudsman that is the secretary to the
30 International Ombudsman Institute.
31
32 And when you were in France and Styria for the weekend in
33 May 2023, was that paid for by the OWA or paid for by
34 Minister Amon?---Ah, I don't think it was paid for by
35 Minister Amon. I think it would have been paid for by the
36 state of Styria.
37
38 And do you recall hosting a dinner during the course of
39 your time in Austria on that occasion?---Ah, you'll need to
40 remind me.
41
42 There's an entry on the corporate credit card for a dinner
43 of \$1,559?---Yes. Um, ah, in fact I think we hosted two
44 dinners. One very small one - and that was a dinner for
45 the Australian Ambassador to the Ukraine, um, for the
46 Ukrainian Parliamentary Commissioner for Human Rights, um,
47 and a range of other ombudsmen.
48
49 Okay. Thank you, that can be taken down. In mid-2023, did
50 you make arrangements for a consultant to come to the OWA

1 to look into reclassifying the acting role that Ms Poole
2 was in at the time to a class 3 level position?---Ah, I
3 can't remember the exact time. There was - we were doing a
4 range of reclassifications at the time. But, um, I
5 certainly - we certainly had one come in at some - a
6 consultant coming or was it done internally? I'm not
7 certain. It was one or the other. I do have a
8 recollection of it.

9
10 And was one of the bases upon which you were seeking to get
11 that position reclassified the fact that Ms Poole was doing
12 a lot of international work and you thought the role had a
13 very international focus?---Yeah. I wasn't seeking to get
14 anything classified. Um, what I was doing though was
15 asking for the work that, um, that officer was doing, um,
16 was it appropriately classified for the work that was being
17 done. And certainly, you're right. Part of that was the
18 international work. But I would have expressed a view
19 about the fact that - yes, I would have expressed a view
20 about the fact that I think that international work meant
21 that the position was potentially under-classified.

22
23 Could I have 0326 at page 5, thank you.

24
25 0326^

26
27 Just scroll down to see Mr Field's email of July the 16th,
28 thank you, to Morgan Marsh. Just give you a minute to look
29 at that email?---Thank you. I'm so sorry. If you just go
30 down a tiny bit. I'm just not sure if that's - oh, yeah,
31 just to the end. It's much more - thank you. And then to
32 the end of the - yes, correct.

33
34 You've given very clear instructions as to why you think
35 the position should be classified higher than it is?---
36 Correct.

37
38 And predominantly that's because of the IOI international
39 relations work that the position is required to do in your
40 estimation?---It was three reasons as I recollect it - no,
41 that's wrong. Two reasons. One, the base C1
42 classification was for a - a position for complaints
43 handling which was being undertaken by, ah, Ms Poole. That
44 position had expanded to include investigations, um, and
45 that moved it in my view further. And then in addition to
46 that you also had, um, the international work as well, um -
47 well, subnational, national and international policy work
48 of which the international policy work was an important
49 component. Correct.

50

1 And did you tell Ms Marsh during the course of this process
2 that you were expecting Ms Poole to act on behalf of you as
3 President of the IOI on occasion?---Not act under the Act
4 if that's what you mean - ah, under the relevant provisions
5 of the Act, but certainly - - -

6
7 No. As President of the IOI?---Well, certainly to
8 represent me, um, on occasions and on times. Um, that's
9 absolutely correct that she may have to actually undertake
10 activities which were in effect ones that for whatever
11 reason, um, I may not be able to do, which she did.

12
13 If we could go to page 3, thank you. Now, this is not your
14 email, so I'll just give you a minute to look at that?---
15 Mm hmm.

16
17 So Ms Marsh is telling the consultant that these are your
18 instructions.

19
20 The Ombudsman has advised that in relation to international
21 duties -

22
23 And then 1 through to 7. Does that reflect what your view
24 was at the time that you had conveyed to Ms Marsh?---You're
25 a slightly faster reader than I am, so I didn't quite get
26 to that.

27
28 **THE COMMISSIONER:** Take your time?---I'm so sorry,
29 Commissioner. I - I - this looks to me like it's a, um,
30 not perfect but a good summary I think of, um, ah - of the
31 information that I had given to Ms Marsh. Correct.

32
33 **NELSON, MS:** So if we go to paragraph 5 you can see that
34 your - your vision is that the new position would undertake
35 human rights missions?---Correct.

36
37 And then at 6 that the position would be required to be
38 available seven days a week at all hours as required?---
39 Most certainly.

40
41 And work long and unusual hours?---Most definitely.

42
43 And the position is responsible for all matters when acting
44 in my role as the position would carry out my
45 responsibilities as president.?---Correct.
46 And if we go to the - the top, number 1, that:

47
48 The position would be required to address international
49 meetings and have multiparty bilateral exchange -

50

1 - will be included in that?---Well, indeed, the position
2 was doing - already doing those things already.

3
4 So it would be fair to say that points 1 through to 7 are
5 all activities related to IOI work?---I - I just want to
6 read it to make sure I can just give an honest answer to
7 the Commission, that's all. So the - I - I'll go through
8 them individually. One, definitely. Two, no, is that's
9 not the answer - the - where I'm referring to:

10
11 The interest of the IOI, The Ombudsman Institution -

12
13 - that is referring to liaison that's not strictly IOI
14 liaison. Same with three. That wasn't limited to the IOI.
15 six and seven aren't - sorry, six, um, is certainly not
16 just IOI, nor is - ah, no, seven is, cos that would have
17 been the deputy otherwise, so seven is, and eight, nine and
18 10, um, are largely not the IOI, not - not the IOI.

19
20 **THE COMMISSIONER:** A bit of a mix, according to the
21 heading:

22
23 Subnational and international duties.

24
25 Yeah, I just read that, and I wonder whether that's, ah - I
26 don't want to be critical of Morgan at all, but:

27
28 The NPM -

29
30 - ah, Australia's national preventative mechanism -

31
32 - new functions of the office of the ombudsman own motion
33 investigations -

34
35 - none of those were IOI activities, um, but I think,
36 certainly, it's true, counsel, there is a lot of IOI
37 activities in there. I want to be absolutely frank about -
38 clear about that. Um not all of it is, and eight, nine and
39 10 almost exclusively is not. A couple of them, um, in one
40 to seven include things that aren't just IOI.

41
42 **JOHNSTON, MS:** And as at July 2023, does this list of
43 activities reflect what Ms Poole was doing when she was
44 acting in that principal assistant ombudsman - - ?---Yes.

45
46 - - - position?---Yeah. Yeah, and - well, in fairness to
47 her, probably understates it.

48
49 Understates it, did you say?---Mm, probably.

50

1 I note the time, Commissioner. I just have one last matter
2 to ask Mr Field. Thank you.

3

4 **THE COMMISSIONER:** Ask away.

5

6 **JOHNSTON, MS:** I just want to show you one of the exhibits
7 that you have produced to the Commissioner under notice,
8 which is - - -?---Thank you.

9

10 - - - 0560.

11

12 0560^

13

14 **JOHNSTON, MS:** On the previous occasion in which you were
15 examined, I asked you about an internal budget
16 document - - -?---Yes.

17

18 - - - that the CFO had prepared for you, and in particular,
19 I asked you about a figure that was attributed to your
20 expenses from the office of the president and ombudsman of
21 \$225,240 - - -?---Correct.

22

23 - - - and I suggested to you that that was a figure that
24 related to international travel for you and Ms Poole?---
25 Correct.

26

27 And you have produced this table. Do I understand it that
28 this table reflects how the CFO arrived at that total
29 figure?---Exactly. Correct. And - and as provided to me
30 by the CFO.

31

32 So the - the travel component, obviously, would be all
33 those matters that have travel in the - the description?---
34 Correct.

35

36 180,000, 36,000, 120,000 times two, which comes, I think,
37 to just over 218,000?---Oh, easily (indistinct) correct.

38

39 So the expected expenditure from within your office of the
40 president and ombudsman team - - -?---Yes.

41

42 - - - on travel for this financial year is expected to be
43 218,000 or thereabouts?---Correct. On both non-IOI and IOI
44 matters.

45

46 Thank you.

47

48 Nothing further. Thank you, Commissioner.

49

50 **THE WITNESS:** Thank you.

1
2 **THE COMMISSIONER:** Mr Field, I just want to be absolutely
3 clear, because maybe (indistinct), what do you say is the
4 source of your power to expend state money on international
5 matters?---Ah, I say that source of power, Commissioner, is
6 the appropriation of moneys that I receive from parliament
7 to undertake my role as ombudsman, of which I see the
8 president as a, ah, part of undertaking that role, also
9 with the parliament cognisant of the fact that I am
10 undertaking that role, which I think is a relevant
11 parenthetical.

12
13 Thank you?---Thank you, Commissioner.

14
15 Mr Porter, don't panic, I'm not going to call on you today.

16
17 **PORTER, MR:** No panic, Commissioner.

18
19 **THE COMMISSIONER:** I understand that you wish to further
20 examine Mr Field?

21
22 **PORTER, MR:** I do.

23
24 **THE COMMISSIONER:** Unlike some of my predecessors, I do
25 not limit the extent of questioning, because I find it's
26 all useful. The only caveat I'd put on that is, obviously,
27 an examination before the Commission has a number of
28 purposes, one of which of course, is to give a witness an
29 opportunity to comment on matters that may be adverse, and
30 another is simply to gather information. I don't need any
31 more information in relation to the matters that we already
32 have information in, but that shouldn't restrict you from
33 examining the witnesses to any matter that you wish, and
34 raise any new matters. I just don't need old matters
35 regurgitated.

36
37 We will adjourn until 9.45.

38
39 (THE WITNESS WITHDREW)

40
41 AT 4.17 PM THE MATTER WAS ADJOURNED UNTIL
42 WEDNESDAY, 20 MARCH 2024
43
44
45

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*Evidence Act 1906***

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MARCH 2024:

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